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

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

|  |  |  |
| --- | --- | --- |
| Gladys Brown Dutrieuille, Chairman | | |
| David W. Sweet, Vice Chairman | | |
| John F. Coleman, Jr. | |
| Ralph V. Yanora | |
|  | |
| Petition of Claverack Communications, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania | P-2021-3023996 |

**ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the February 3, 2021 Petition of Claverack Communications, LLC (Claverack Communications), 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 54.101, 54.201-54.203 and 54.205-54.209 of the Federal Communications Commission’s (FCC) regulations, 47 C.F.R. §§ 54.101, 54.201-54.203 and 54.205-54.209, and 52 Pa. Code § 69.2501.

Specifically, Claverack Communication is required to obtain a designation as an ETC from the Commission in order for it to be eligible to receive the federal high-cost support funding it has been awarded in the FCC’s Rural Digital Opportunity Fund (RDOF) auction (Auction 904). As such, Claverack Communications is required to certify to the FCC that it has received designation as a high-cost ETC in all of the eligible census block groups in Pennsylvania for which Claverack Communications submitted a winning bid and has been awarded Auction 904 support.

In its Petition for ETC Designation (Petition), Claverack Communications states that it is seeking designation as a high-cost ETC in the specific RDOF-eligible census block groups for which it was awarded funding and as a Lifeline-only ETC in all other areas where it has not been awarded high-cost support from Auction 904.[[1]](#footnote-2) We have reviewed Claverack Communications’ 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 meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation and it is in the public interest that Claverack Communications be designated as an ETC for purposes of receiving Auction 904 high-cost support in those Pennsylvania eligible census block groups where it submitted a winning bid to deploy and maintain networks capable of providing voice and broadband access services. Additionally, we are designating Claverack Communications as a Lifeline-only ETC in those areas in its Designated Service Area where it will not receive any federal high-cost support so that it can provide Lifeline service to qualifying low-income customers or households located in those areas. Accordingly, Claverack Communications’ Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law*.*

**BACKGROUND**

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

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 254(b).[[2]](#footnote-3) For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust, affordable voice and broadband services become available to all Americans living in rural areas across the nation who were receiving voice service but lacked access to robust broadband infrastructure and service.[[3]](#footnote-4)

Up to that time, the six pre-existing programs in the High Cost Program had only supported the provisioning of voice service.[[4]](#footnote-5) In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients so that they could provision both fixed broadband and voice service throughout their service territories.[[5]](#footnote-6) Concomitant with this repurposing, the FCC also renamed the federal High Cost program to the Connect America Fund (CAF). With the CAF and Auction 903, the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange carriers that operate as price cap carriers under federal law, through a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.[[6]](#footnote-7)

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

To continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also began restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the *2012 Lifeline Reform Order* by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and set an interim funding rate of $9.25 per month and per eligible subscriber or household.[[7]](#footnote-8)

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improved program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.[[8]](#footnote-9) The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things: allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.[[9]](#footnote-10) The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and, now, broadband access.[[10]](#footnote-11) These modified requirements have been codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

**C. CAF Auctions**

The FCC contemplated that its new competitive bid process to disburse federal universal service high-cost support to common carriers would be done as “reverse” auctions” and rolled-out in different phases.[[11]](#footnote-12) The second phase of the CAF, but first “reverse” auction to disburse federal high-cost support, was Auction 903 (or CAF Phase II Auction) in 2018.[[12]](#footnote-13) Auction 903 awarded up to $198 million annually for 10 years to all service providers that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.[[13]](#footnote-14)

Acknowledging that Auction 903 was a significant step towards addressing the rural “digital divide” in America but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the $20.4 billion RDOF as its next step in bridging the rural digital divide in America.[[14]](#footnote-15) Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania which were entirely unserved by broadband service of at least 25/3 Mbps.[[15]](#footnote-16)

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

Claverack Rural Electric Cooperative (CREC)[[19]](#footnote-20) submitted a short-form application to participate in the RDOF Phase I as part of a bidding consortium known as “the Co-Op Connections Consortium.” Phase I of the RDOF Auction began on October 29, 2020, and ended on November 25, 2020. On December 7, 2020, the FCC announced

the winning bidders[[20]](#footnote-21) for Phase I of the RDOF auction and awarded up to $923 million annually for 10 years to these winning bidders that had committed to provide voice and fixed broadband internet access services (BIAS) to specific locations in unserved high-cost areas, including areas in Pennsylvania.[[21]](#footnote-22)

In the *RDOF Closing Public Notice*, the FCC announced that Co-Op Connections Consortium was awarded a total of $42.6 million of federal high-cost support funding for certain designated RDOF-eligible CBGs located throughout the Commonwealth of Pennsylvania.[[22]](#footnote-23) Specifically, CREC was one of the winning consortium bidders and received $31.6 million in RDOF support for a number of locations in 35 CBGs in Pennsylvania.[[23]](#footnote-24) *See* Appendix A. In accordance with Auction 904 rules and procedures,[[24]](#footnote-25) Co-Op Connections Consortium through CREC assigned a portion of its winning bid in Pennsylvania to its wholly-owned subsidiary, Claverack Communications.[[25]](#footnote-26)

**D**. **Claverack Communications’ Petition and Supplements**

Pursuant to the *RDOF Order* and the *RDOF Public Notice*,[[26]](#footnote-27) winning bidders were required to certify with the FCC that they have obtained an ETC designation that covers all relevant census blocks from the relevant authority for high-cost ETC designation by June 7, 2021.[[27]](#footnote-28) In its Petition, Claverack Communications has requested ETC designation in 35 specific CBGs where it had been awarded RDOF Phase I high-cost funding support by the FCC in Auction 904. Claverack Communications is a limited liability company located at 32750 Route 6, Wysox, Pennsylvania in Bradford County.[[28]](#footnote-29) Claverack Communications provided documentation that it has the requisite authority from the Pennsylvania Department of State to do business in Pennsylvania as a domestic limited liability company.[[29]](#footnote-30)

In its Petition, Claverack Communications stated that it was created by CREC to offer retail voice and broadband services.[[30]](#footnote-31) Additionally, CREC and Claverack Communications submitted the necessary filing to the FCC to accept their portion of the overall RDOF support awarded to the Co-Op Connections Consortium as directed by the FCC in the *RDOF Public Notice*.[[31]](#footnote-32) On January 29, 2021, Claverack Communications submitted its long-form application to the FCC to secure the funding for the 35 census block groups that it was awarded in the RDOF Auction 904.[[32]](#footnote-33)

Claverack Communications states that Exhibit 5 of its Petition, which is an excerpt from its proposed CLEC tariff, lists the various exchanges of the rural incumbent local exchange carriers (RLEC) where its awarded CBGs are situated and for which Claverack Communications is requesting high-cost ETC designation in Pennsylvania.[[33]](#footnote-34) Exhibit 5 also lists the counties, townships and boroughs that comprise Claverack Communications’ entire service territory. We have listed the local exchanges of the rural areas where Claverack Communications has been awarded federal high-cost support below:

**Claverack Communications Local Exchanges in the ILEC Service Territories[[34]](#footnote-35)**

|  |  |  |  |
| --- | --- | --- | --- |
| **The North-Eastern Pennsylvania Telephone Company** | **Frontier Communications of Canton, LLC** | **Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company** | **Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company** |
| New Milford | Canton | Little Meadows | Brooklyn |
|  | Troy | Quaker Lake | Laceyville |
|  |  |  | Lawsville |
|  |  |  | Leraysville |
|  |  |  | Montrose |
|  |  |  | New Albany |
|  |  |  | Nicholson |
|  |  |  | Noxen |
|  |  |  | Rome |
|  |  |  | Rush |
|  |  |  | St. Joseph |
|  |  |  | Springville |
|  |  |  | Towanda |
|  |  |  | Troy |
|  |  |  | Tunkhannock |
|  |  |  | Ulster |

For the geographic areas in the townships and boroughs for which Claverack Communication has not been awarded federal high-cost support in Auction 904, Claverack Communications requests designation as a Lifeline-only ETC.

Claverack Communications certifies that its wireline service offering satisfies the FCC’s definition of voice telephony service, and it will provide all services designated for support by the FCC.[[35]](#footnote-36) Claverack Communications plans to deploy a Fiber to the Premises (FTTP) network architecture to serve Claverack Communications’ awarded census block locations within each CBG. The fiber optic cable infrastructure will be designed in a manner that permits Claverack Communications to use various next-generation technologies such as Active Ethernet and Gigabit Passive Optical Network to serve its customers.[[36]](#footnote-37) Claverack Communications’ proposed FTTP network architecture will allow for the delivery of voice and data services across the broadband access platform.[[37]](#footnote-38) It anticipates using a managed services provider to facilitate interconnection with the PSTN and traffic exchange with other carriers.[[38]](#footnote-39) Claverack Communications’ FTTP network will separately provision voice traffic from Internet traffic since both services will be transmitted over the same physical network.[[39]](#footnote-40)

Claverack Communications plans to implement a proposed FTTP network across its Designated Service Area that allows for delivery of voice and data services across a broadband access platform.[[40]](#footnote-41) Claverack Communications will implement redundant Ethernet uplinks from the proposed FTTP electronics to its core data network.[[41]](#footnote-42) Claverack Communications also plans to implement data network routers, Internet uplinks, and ISP services to support customers from the awarded census block locations in the RDOF Phase I Auction 904.[[42]](#footnote-43) The FTTP architecture enables the network operator to provide peak data speed to individual users in increments of 1 Mbps or less.[[43]](#footnote-44) This functionality allows Claverack Communications to provide a wide variety of data rates up to 1 Gbps (including raw data and ethernet overheads).[[44]](#footnote-45) Claverack Communications’ FTTP uses pulses of light to transmit voice and data traffic which results in one of the fastest possible transmission paths, creating a very low-latency network.[[45]](#footnote-46)

Notice of Claverack Communications’ Petition was published in the Pennsylvania Bulletin at 51 Pa.B. 2747 on May 15, 2021. No comments were filed in response to Claverack Communications’ Petition. Claverack Communications also filed supplements to its Petition that set forth additional pertinent information.

**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.”[[46]](#footnote-47) Consequently, a common carrier first must be designated as an ETC subsections (2), (3), or (6) of Section 214(e) of the Act to be eligible to receive federal high-cost universal service support in accordance with section 254 of the Act. Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support. Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.[[47]](#footnote-48)

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission has reviewed Claverack Communications’ Petition, as supplemented, to determine whether if it satisfies the federal and state law criteria to receive a designation as an ETC in Pennsylvania.

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

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier must satisfy the following criteria[[48]](#footnote-49) in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support throughout the service area for which the designation is received: (1) certify that it offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act;[[49]](#footnote-50) (2) certify that it offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;[[50]](#footnote-51) (3) describe how it advertises the availability of the supported services and the charges therefor using media of general distribution;[[51]](#footnote-52) and (4) describe the geographic service area for which it requests to be designated an ETC.[[52]](#footnote-53)

The FCC adopted additional requirements for parties seeking ETC designation that have been codified at 47 C.F.R. § 54.202.[[53]](#footnote-54) As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;[[54]](#footnote-55) (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;[[55]](#footnote-56) (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;[[56]](#footnote-57) (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;[[57]](#footnote-58) and (5) offer local usage comparable to that offered by the ILEC.[[58]](#footnote-59)

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.[[59]](#footnote-60) Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

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

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation.[[60]](#footnote-61)

We also have Pennsylvania-specific guidelines discussed below that a federal high-cost ETC petitioner must satisfy before we can approve its request for ETC designation in Pennsylvania. Our review of Claverack Communications’ Petition is 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. Additionally, our review of Claverack Communications’ Petition is also done to ensure consistency with independent Pennsylvania law as an ongoing obligation.

As discussed in more detail below, we determine that Claverack Communications satisfies all federal requirements applicable to obtaining a high-cost ETC designation, including those embodied in the FCC’s *Universal Service Order*, the *2005 ETC Designation Order*, the *USF/ICC Transformation Order*, the *Lifeline Reform Orders*, and codified in pertinent FCC regulations. Claverack Communications also satisfies related Pennsylvania-specific requirements or guidelines.

**A. *Certification That It Is a Common Carrier and Offering All Services Designated for Federal Universal Service Support***

In order to obtain an ETC high-cost designation, Claverack Communications must demonstrate that it is a common carrier and certify that it offers the services supported by the federal universal service support mechanisms or “supported services”.[[61]](#footnote-62) Pursuant to 47 C.F.R. § 54.101, the FCC defines supported services as qualifying voice service and the offering of qualifying broadband Internet access service (BIAS).[[62]](#footnote-63) Also, as a condition of receiving support, the common carrier must offer qualifying voice service as a standalone service throughout its designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.[[63]](#footnote-64)

**1. Qualifying Voice Service**

In order to satisfy the criterion of offering qualifying voice services set forth in 47 C.F.R. § 54.201(a), Claverack Communications must be a common carrier that certifies that its eligible voice telephony services provide (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-income consumers. Additionally, as a RDOF support recipient, like all other high-cost ETCs, Claverack Communications will be required to offer standalone voice service and offer voice and broadband services at rates that are reasonably comparable to rates offered in urban areas. Claverack Communications certifies that its wireline service offering satisfies the FCC’s definition of voice telephony service.[[64]](#footnote-65)

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

In its Petition, Claverack Communications states that Exhibit 1 to its Petition depicts how it plans to implement a proposed FTTP network across its Designated Service Area that will allow for delivery of both voice and data services across a broadband access platform. Claverack Communications asserts that this fiber optic cable infrastructure will be designed in a manner that permits it to use various next-generation technologies (e.g., Active Ethernet, Gigabit Passive Optical Network, etc.) to serve customers.[[65]](#footnote-66) Claverack Communications also states that it anticipates it will use a managed services provider to facilitate interconnection with the PSTN and traffic exchange with other carriers.[[66]](#footnote-67)

Additionally, Claverack Communications asserts that because FTTP technologies transmit voice and data over the same physical network, voice traffic is provisioned separately from the Internet traffic, which allows for the network operator to prioritize voice traffic over other types of traffic. Claverack Communications further asserts that since light is not susceptible to electromagnetic interference like copper-based (*e.g.*,DSL, cable modems, etc.) or wireless technologies, the FTTP deployments offer high signal-to-noise ratios and the lowest possible error rates of any access technology.

Claverack Communications also states that it will provide standalone interconnected Voice over Internet Protocol (VoIP) service in its proposed Designated Service Area.[[67]](#footnote-68) Lastly, Claverack Communications further certifies that it will offer voice service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.[[68]](#footnote-69)

**b. Minutes of Use for Local Service**

As part of offering voice grade access to the PSTN, an ETC must also 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.[[69]](#footnote-70) 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.

Claverack Communications states that it will offer voice rate plans in the service area that includes local calling at no additional charge and will comply with any and all minimum local usage required adopted by the FCC or states with jurisdiction over Claverack Communications’ standalone voice service.[[70]](#footnote-71)

**c. Access to Emergency Services**

Claverack Communications also certifies that it will provide access to 911 and E911 emergency calling services for all of its customers to the extent the local governments in its service area have implemented 911 and E911.[[71]](#footnote-72) Additionally, Claverack Communications will advise every VoIP subscriber, and will provide the necessary disclosure, of the circumstances under which 911 service may not be available or may be in some way limited by comparison to traditional E911 service.[[72]](#footnote-73) Such circumstances include, but are not limited to, relocation of the end user’s IP-compatible customer premise equipment (CPE), use by the end user of a non-native telephone number, broadband connection failure, loss of electrical power, and delays that may occur in making a dispatchable location available in or through the Automatic Location Identification (ALI) database.[[73]](#footnote-74) As Claverack Communications rolls out its VoIP services in accordance with the FCC’s RDOF milestones, it will ensure that all of its VoIP customers, including participants in the Lifeline program, have full access to E911 services in compliance with all FCC rules relating to E911 and Lifeline.[[74]](#footnote-75) Claverack Communications or its third-party managed VoIP provider will ensure that the necessary arrangements are in place with municipalities for this purpose.[[75]](#footnote-76)

Claverack Communications has also certified that it will take measures to ensure reliability of 911 in emergency situations.[[76]](#footnote-77) Claverack Communications has selected its engineering and design vendor to design the network and assist with equipment choices.[[77]](#footnote-78) Claverack Communications will ensure redundancy and reliability by including battery back-ups at cabinets and will also consider wired back-up generation sources at points on its network.[[78]](#footnote-79) It also anticipates that network design may include multiple sites for interconnection with back-haul providers to access the PSTN such as Level 3, PenTeleData and other back-haul providers in Claverack Communications’ service area.[[79]](#footnote-80)

The FCC also requires interconnected VoIP carriers to obtain affirmative acknowledgment that each subscriber understands the circumstances in which E911 service may be limited or unavailable. 47 C.F.R. § 9.11(b)(5). Claverack Communications anticipates developing its ordering and customer documentation process for various services in 2022 and is considering multiple methods to obtain the affirmative acknowledgement from subscribers for E911 service.[[80]](#footnote-81) It is considering the following methods for affirmative acknowledgement from subscribers: paper order forms, on-line order form, telephone or video chat order, annual reconfirmations through invoices.[[81]](#footnote-82)

Accordingly, the Commission determines that Claverack Communications has satisfied its obligation of ensuring access to emergency services.

**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.

In the FCC’s *Lifeline and Link Up Reform Order*, the FCC explained that toll limitation would no longer be deemed a supported service as of 2014.[[82]](#footnote-83) As such, Claverack Communications will not seek reimbursement for toll limitation services. Claverack Communications currently does not have Lifeline customers because only carriers designated as an ETC can participate in the Lifeline program. Once designated as an ETC, however, Claverack Communications will participate in Lifeline, as required by the FCC’s rules, and will provide toll blocking service.[[83]](#footnote-84) Therefore, the nature of Claverack Communications’ service eliminates the concern that low-income customers will incur significant charges for international calls, risking disconnection of their service.

**2. 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.[[84]](#footnote-85) Additionally, pursuant to Section 54.805 of the FCC’s regulations, recipients of RDOF support are “required to offer broadband service with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas.”[[85]](#footnote-86) More specifically, recipients of RDOF support are required to meet the broadband service speeds and performance standards for the relevant performance or the average usage of a majority of fixed broadband customers as announced annually by the FCC’s Wireline Competition Bureau (WCB).[[86]](#footnote-87)

Claverack Communications is obligated to offer one service plan that provides BIAS at 1 Gbps/500 Mbps speed at low latency.[[87]](#footnote-88) For winners in the RDOF Phase I auction who submitted bids for the Gigabit tier speed, the FCC required them to show that 95% or more of all testing-hour measurements of network round trip latency are at or below 100 milliseconds (ms) as their latency standard for BIAS.[[88]](#footnote-89)

Claverack Communications asserts that it will offer BIAS with the capability to transmit data 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.[[89]](#footnote-90) Claverack Communications states that it will implement redundant Ethernet uplinks from the proposed FTTP electronics to its core data network, which will ensure highly reliable broadband data communications services.[[90]](#footnote-91) Claverack Communications also plans to implement data network routers, Internet uplinks, and ISP services to support customers from the awarded census block locations in the RDOF Phase I Auction 904.[[91]](#footnote-92)

Claverack Communications asserts that this proposed FTTP architecture should enable the network operator to provide peak data speeds to individual users in increments of 1 Mbps or less and also allow Claverack Communications to provide a wide variety of data rates up to 1 Gbps (including raw data and ethernet overheads).[[92]](#footnote-93) Thus, Claverack Communications commits to adhere to the requisite performance standards and interest obligations for the relevant performance tier it is obligated to deploy and offer to consumers.

Lastly, Claverack Communications further certifies that it will offer broadband service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.[[93]](#footnote-94) Accordingly, the Commission finds that Claverack Communications satisfies this criterion because through the RDOF Phase I funding support it will receive from Auction 904, Claverack Communications 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.[[94]](#footnote-95)

**B. *Certification Regarding the Offering of the Supported Services Using a Carrier’s Own Facilities***.

In order to obtain a high-cost ETC designation, a common carrier must offer the qualifying supported services throughout their service area “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”[[95]](#footnote-96) Thus, only common carriers that provide the qualifying supported services as defined under section 54.101(a), as amended, by using their own facilities will be deemed to meet the requirements of subsection 214(e)(1)(A) of the Act.

The FCC has interpreted the term “facilities” 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).”[[96]](#footnote-97) However, 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.”[[97]](#footnote-98)

Facilities are the ETC’s “own” if the ETC has exclusive right to use the facilities to provide the supported services[[98]](#footnote-99) or when service is provided by any affiliate within the holding company structure.[[99]](#footnote-100) Additionally, a common carrier satisfies its ETC designation 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.[[100]](#footnote-101) Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or 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.[[101]](#footnote-102)

Claverack Communications has attested that it will be providing the qualifying supported services and functionalities 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.[[102]](#footnote-103)

**C. *Certification Regarding Advertising Supported Services.***

Claverack Communications has stated that it will advertise the availability of its Lifeline services in a manner reasonably designed to reach those likely to qualify for the service.[[103]](#footnote-104) Claverack Communications further attested that it will coordinate with state, county and local agencies and organizations that target audiences who are potentially eligible for Lifeline. Claverack Communication also will promote the availability of the program through its website and mailers to current and potential customers, through articles in the Claverack Rural Electric Cooperative periodic newsletters and through booths or exhibits at other local events.[[104]](#footnote-105) Claverack Communications further certifies to provide the Commonwealth’s Department of Human Services (“DHS”) with Lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas it serves, for use by DHS in providing notifications to new enrollees in DHS-administered low-income programs pursuant to 66 Pa.C.S. § 3019(f).[[105]](#footnote-106) Lastly, Claverack Communications states that it will advertise the availability and rates of voice and broadband internet service in languages other than English consistent with the applicable FCC and PUC rules.[[106]](#footnote-107)

**D. *Certification to Provide a Detailed Description of the Geographic Service Area Where It Will Be Designated an ETC***

Generally, once an entity is designated an ETC in a service area, it must offer the supported services throughout that entire designated service area. The term service area generally means the overall geographic area for which the carrier shall receive support from federal universal service support mechanisms. A service area is established by a state commission for the purpose of determining universal service obligations and support mechanisms. Thus, an ETC’s “service area” is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support.[[107]](#footnote-108)

Claverack Communications has been awarded RDOF Phase I high-cost funding support in specific RDOF-CBGs located in the Pennsylvania counties of Bradford, Susquehanna and Wyoming. Pursuant to its Petition, Claverack Communications is seeking designation as a high-cost ETC only in the RDOF-eligible CBGs that are located within certain local exchanges of the following RLECs in Pennsylvania: Commonwealth Telephone Company d/b/a Frontier Communications, Frontier Communications of Canton, LLC, The North-Eastern Pennsylvania Telephone Company and Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company.

Section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), normally requires that a competitive high-cost ETC’s (CETC) proposed designated service area conform with the rural incumbent ETC’s designated service area. The rural incumbent ETC’s designated service area is usually its entire service territory. Generally, if a state commission sought to designate a CETC only in a portion of a rural incumbent ETC’s designated service, that rural service area must first be redefined under the process set forth in Section 214(e)(5) of the Act.[[108]](#footnote-109) To accomplish a redefinition of a rural service area, the Commission would be required to conduct a cream-skimming analysis to compare the population density of the wire centers in which the CETC applicant seeks designation against that of the wire centers in the rural service area in which the CETC applicant does not seek designation.[[109]](#footnote-110)

In this proceeding, Claverack Communications seeks a high-cost ETC designation in the service territory of four RLECs but it requests that its designated service areas be limited only to those townships and boroughs in the rural incumbent ETC’s service area that comprises Claverack Communications’ service territory. As explained above, the Commission usually would have to undergo a redefinition analysis of the particular RLEC service territory since the Petitioner requests to be designated only in certain portions of the RLECs’ service areas. However, the FCC has eliminated the service area conformance requirement for those winning bidders in the Auction 904 seeking an ETC designation.[[110]](#footnote-111)

Specifically, in its *RDOF 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 904 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 a competitive ETC conform to the service area of any RLEC serving an area eligible for Phase I support.[[111]](#footnote-112) The FCC noted that like the CAF Phase II auction, it will be maximizing the use of the RDOF support by making it available for only one provider per geographic area.[[112]](#footnote-113) It further 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 904, the incumbent ETC’s service area is no longer a relevant consideration in determining the geographic scope of a winning bidder’s ETC designation.[[113]](#footnote-114) Hence, the RLEC’s service area will no longer be relevant because the incumbent ETC may be eventually replaced by the RDOF recipient in those portions of its service area where it may seek relinquishment since it will no longer receive high-cost support to provide the supported services, particularly qualifying voice service.

Here, Claverack Communications was a winning bidder in specific eligible census block groups located within four of our RLECs’ service areas. Consequently, it is seeking a high-cost ETC designation only in those specific CBGs. Since the FCC has waived its rules regarding the redefinition process specifically for Auction 904 funding recipients, there is no need for the Commission to consider the relevant analysis the state and the FCC historically considered when deciding whether to redefine an RLEC’s service area when it receives a request from the winning bidder to have a designated service area that is below the incumbent rural ETC’s entire service area.

Based on our analysis of the applicable and relevant governing authority, we approve Claverack Communications’ request for it to be designated a high-cost ETC in a service area that is below the service area of each of the four RLECs. Accordingly, we approve Claverack Communications’ proposed Designated Service Area as set forth in its Petition and relevant supplements. Claverack Communications’ high-cost Designated Service Area will only consist of the specific RDOF Phase I CBGs listed in Appendix A, which are located in the specific local exchanges of four RLECs, as listed in Appendix B.

**E*. Compliance with the Service Requirements Applicable to Auction 904 Support***

Claverack Communications must certify that it will comply with requirements applicable to the federal universal service support that it has been awarded by the FCC. In order to satisfy this criterion, an ETC petitioner must demonstrate its commitment and ability to provide the supported services to all customers making a reasonable request for service within the ETC’s designated service area.[[114]](#footnote-115)

To satisfy the first prong, an ETC petitioner must ensure that it is providing services to all customers making a reasonable request for service throughout its proposed Designated Service Area. If the ETC’s network already passes or covers the potential customer’s premises, the ETC should provide service immediately. Claverack Communications certifies that it will comply with the service and performance requirements applicable to the support that it receives, including the performance requirements and deployment milestones associated with RDOF support.[[115]](#footnote-116) Additionally, Claverack Communications certifies that it will comply with all applicable state and federal consumer protection and service quality standards associated with the receipt of RDOF support.[[116]](#footnote-117)

**F*. Certification Regarding Continued Functionality in Emergency Situations***

Pursuant to 47 C.F.R. § 54.202(a)(2), an ETC petitioner is required to demonstrate its ability to remain functional in emergency situations. To satisfy this criterion, a petitioner 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 situations. The FCC’s regulations further 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.[[117]](#footnote-118)

Claverack Communications has certified that it intends to design the network with redundancy to enable continuous service.[[118]](#footnote-119) Claverack Communications asserts that it is contemplating locating multiple dead ends in the service territory and ensure that the network contains at least two backhaul interconnections. Claverack Communication will also install battery backups for Optical Network Terminals (ONT) at customers’ premises if purchased.[[119]](#footnote-120) Claverack Communications will explain the installation cost to the customer as part of the application process and will also inform the customer of the option to purchase battery backup and the associated cost.[[120]](#footnote-121) Claverack Communications will also include a backup-power disclosure.[[121]](#footnote-122) Claverack Communications has set forth its anticipated voice service options and pricing on pages 38 to 41 in its proposed tariff. Claverack Communication anticipates that it will develop its broadband service prices in 2022, before it begins marketing services in anticipation of its initial service launch expected to occur before the end of 2022.[[122]](#footnote-123)

**G*. Certification to Satisfy Customer Service and Service Quality Standards***

Historically, a petitioner seeking an ETC designation for purposes of becoming eligible to receive high-cost support was required to demonstrate its ability to satisfy applicable consumer protection and service quality standards.[[123]](#footnote-124) However, for petitioners seeking ETC designation for the purposes of becoming authorized to receive Auction 904 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 904 winning bid areas and specific reporting obligations relating to such standards.[[124]](#footnote-125)

Nonetheless, Claverack Communications is a certificated CLEC and Interexchange Facilities-based reseller authority and, thus, it is subject to the consumer protection and service quality standards promulgated by the Commission.[[125]](#footnote-126) Claverack Communications asserts that it will meet those requirements as applicable. Moreover, Claverack Communications proposes to offer a protected, stand-alone basic voice service over a fiber-based IP platform.[[126]](#footnote-127) Therefore, in addition to other Commission jurisdiction preserved under the VoIP Freedom Act, this service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law, even though it will be provided as an interconnected VoIP service.[[127]](#footnote-128)

**H*. Certification Regarding Financial and Technical Ability to Provide Lifeline Service***

**1. 47 C.F.R. § 54.202(a)(4)**

*Financial and Technical Ability to Provide Lifeline Service*

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.[[128]](#footnote-129) Claverack Communications certifies that it is not seeking designation as an ETC for purposes of receiving support only under 47 C.F.R., Chapter I, Subchapter B, Part 54, Subpart E, which is Lifeline-only support.[[129]](#footnote-130) Therefore, Claverack Communications argues that 47 C.F.R. sections 54.202 (a)(4) is inapplicable.

However, in its Petition, Claverack Communications explicitly states that it is also seeking to be designated as a Lifeline-only ETC in those areas within its service area in Pennsylvania where it has not been awarded Auction 904 high-cost support. As such, Claverack Communications must still demonstrate financial and technical ability to provide Lifeline service in these areas.

Moreover, Claverack Communications must participate in the federal Lifeline program and offer Lifeline service to low‑income eligible customers or households in these CBGs within its Designated Service Area.[[130]](#footnote-131) Therefore, we will ensure that Claverack Communications has the technical and financial capability to provide Lifeline services to eligible low-income consumers residing in either the Auction 904 census blocks or those geographic areas in its service territory that are not subject to Auction 904 funding.

The Commission takes note that Claverack Communications was one of the successful bidders in the FCC’s RDOF Phase I Auction 904 that is aiding with the construction of the planned network facilities in Pennsylvania, and that the FCC’s RDOF Phase I bidding process required the substantive demonstration of managerial, technical, and financial fitness elements for the participation of the successful bidders.[[131]](#footnote-132) Accordingly, we find that Claverack Communications has demonstrated it is technically, managerially, and financially fit to offer and provide Lifeline service to qualifying low-income consumers, consistent with the FCC rules and Pennsylvania-specific rules, throughout its service territory in Pennsylvania. Accordingly, we find that Claverack Communications meets the requirements of 47 C.F.R. § 54.202(a)(4).

**2. 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 Claverack Communications’ ETC designation request. Pursuant to Section 54.202(a)(5) of the FCC rules, a common carriers seeking a Lifeline-only designation must submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan.[[132]](#footnote-133) Additionally, pursuant to 54.202(a)(6) of the FCC rules, a common carriers seeking a Lifeline-only designation must submit information describing the terms and conditions of any BIAS plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan.[[133]](#footnote-134) Thus, Claverack Communications’ Lifeline service that is offered to qualifying low-income consumers throughout its service territory must comply with these FCC’s rules and also the Commission’s rules and guidelines.

Pursuant to Sections 54.202(a)(5) and 54.202(a)(6), Claverack Communications commits to offering Lifeline service 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 Lifeline support.[[134]](#footnote-135) Claverack Communications has provided the requisite information in its accompanying supplements about its Lifeline service plan offerings.[[135]](#footnote-136) Claverack Communications’ supplements include the requisite description of its voice and Internet access service offerings for Lifeline subscribers.[[136]](#footnote-137) Claverack Communications also certifies that Lifeline subscribers will be able to choose from voice and BIAS that are generally available to the public.[[137]](#footnote-138) Accordingly, we find that Claverack Communications meets the requirements of 47 C.F.R. § 54.202(a)(5) and 47 C.F.R. § 54.202(a)(6).

**3. 47 C.F.R. § 54.202(b)**

*Public Interest Standard*

Claverack Communications states that the public interest requirement imposed by 47 C.F.R. § 54.202(b) is inapplicable.  We agree.  This public interest requirement is applicable only when the FCC is designating a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission.  Moreover, a state is already required to determine whether an ETC Petitioner has demonstrated that its request for designation as an ETC is consistent with the public interest, convenience and necessity under 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.202(c)(1), which is discussed in subsection L below.

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

ETC 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. Claverack Communications 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.

**J*. Certification to Relinquish Its ETC Designation***

Claverack Communications may possibly replace the current incumbent price cap ETCs as the only carrier receiving federal USF high-cost support in certain CBGs within the RLECs’ local exchanges.[[138]](#footnote-139) 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.[[139]](#footnote-140) Thus, in those areas where a new provider is granted high-cost ETC status and is authorized to receive Auction 904 support, the incumbent price cap carrier will be relieved of its federal high-cost ETC obligation to offer voice telephony services in that area.

However, this forbearance action does not relieve the price cap ETC of its other “incumbent-specific obligations” like interconnection and negotiating unbundled network elements pursuant to sections 251 and 252 of the Act. Additionally, notwithstanding an incumbent price cap carrier’s being relieved of an ETC obligation to provide qualifying voice telephony service, where the CETC is the only entity that receives federal high-cost support, it is still required to do the following: (1) seek relinquishment of its ETC designation as prescribed under Section 214(e)(4) of the Act and (2) maintain existing voice service until they receive discontinuance authority under section 214(a) of the Act and Section 63.71 of the Commission's rules.[[140]](#footnote-141) Thus, price cap carriers will remain subject to ETC obligations other than those covered by our forbearances unless or until they relinquish their ETC designations in those areas pursuant to Section 214(e)(4) of the Act.

Further, price cap carriers in these areas will remain subject to other Title II requirements, including ensuring that voice telephony rates remain just and reasonable and the nondiscrimination obligations of Sections 201 and 202 of the Act. Moreover, pursuant to our Pennsylvania-specific carrier of last resort (COLR) obligations, the Commission will ensure that the local rates that the relinquishing price cap carrier offers in the areas from which they may forbear remain just and reasonable.[[141]](#footnote-142) Lastly, these price cap carriers must continue to satisfy all Lifeline ETC obligations by offering voice telephony service to qualifying low-income households in areas in which they are subject to this limited forbearance.

The same standard will apply to Claverack Communications upon its ETC designation as the designation will require it to ensure that *all* customers are served in its service territory upon request. Claverack Communications, as a common carrier with an ETC designation, will continue to have the obligation to serve all customers in the Auction 904 census blocks where it will receive federal high-cost support up until the time it is permitted by the Commission to relinquish its ETC designation.[[142]](#footnote-143) Hence, if all other ETCs in Claverack Communications’ proposed Designated Service Area are permitted to relinquish their ETC designations, Claverack Communications, 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.[[143]](#footnote-144)

Accordingly, if at some point in the future Claverack Communications becomes the only entity in the geographic area that receives federal high-cost support, if it seeks to relinquish its ETC designation, it certifies that it will comply with the requirements of Section 54.205 as well as independent state law.

**K*. Certification Regarding Applicable Annual Reporting and Certification Requirements for High-Cost Support Recipients***

Pursuant to 47 C.F.R. § 54.806, an RDOF recipient is required to comply with

applicable annual reporting requirements, compliance measures, recordkeeping requirements and audit requirements for high-cost support recipients under Sections 54.313, 54.314, 54.316 and 54.320(a)-(c) of the FCC’s rules.[[144]](#footnote-145)

**L. *Analysis and Public Interest Standard***

Federal law dictates that only a common carrier designated as an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2) shall be eligible to receive universal service support in accordance with section 254 of the Act.[[145]](#footnote-146) Claverack Communications has filed this Petition seeking to have the Commission designate it as high-cost ETC designation in the relevant census blocks where it has been awarded Auction 904 federal high-cost support.[[146]](#footnote-147)

Section 153(10) of the Act defines the term “common carrier” 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. Common carriers that provide services consistent with the requirements of Section 214(e) may be designated ETCs.

Claverack Communications meets the ETC requirement of being a common carrier. Claverack Communications will provide interconnected VoIP service (and BIAS) in Pennsylvania. Additionally, Claverack Communications also will provide standalone interconnected VoIP service in its Designated Service Area. As such, Claverack Communications is a common carrier under 47 U.S.C. §§ 214(e)(1) for purposes of ETC designation. Thus, the Commission finds that Claverack Communications has established through the required certifications and related filings that it satisfies the standards applicable to obtaining a high-cost ETC designation and that it will comply with the requisite service requirements and obligations attendant to its high-cost designation as specified in the Act, the Commission’s rules, and under independent state law.

However, pursuant to 47 U.S.C. § 214(e)(2), the Commission must still determine that designating Claverack Communications as a high-cost ETC in the eligible Auction 904 census blocks and as a Lifeline-only ETC in all other non-CAF funded geographic areas throughout its service territory would be in the public interest. When making a public interest determination for an ETC designation under 47 U.S.C. § 214(e)(2), we have historically considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner’s service offering in the Designated Service Area.[[147]](#footnote-148)

In particular, granting an ETC designation may serve the public interest by providing a choice of voice and BIAS service offerings to consumers residing within our rural high-cost areas. Additionally, as a condition of obtaining a high-cost ETC designation, Claverack Communications is required to serve low-income consumers by offering Lifeline discounts to its service offerings, which ensures the availability of new, facilities-based Lifeline services at competitive prices in these areas.

Moreover, we believe the Section 214(e)(2) public-interest test has been met because Claverack Communications has been assigned a significant portion of Co-Op Connections Consortium’s winning bid in Pennsylvania in Auction 904, which will result in Pennsylvania benefitting from the federal support associated with those winning bids.[[148]](#footnote-149) Essentially, the Auction 904 support will allow Claverack Communications to offer voice and broadband data services to areas in Pennsylvania that currently do not have broadband access services. Receipt of Auction 904 high-cost support funding will be 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. Recipients of RDOF Phase I 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. Claverack Communications has certified that it will abide by the FCC’s rules for voice and broadband access services in accordance with 47 C.F.R. § 54.805.[[149]](#footnote-150)

Claverack Communications was assigned winning bids in Auction 904 in the following manner:

|  |  |  |  |
| --- | --- | --- | --- |
| **Bidder** | **State** | **Annual Assigned Support for 10-year period** | **Locations Assigned** |
| Claverack Rural Electric Cooperative | PA | $31,634,533[[150]](#footnote-151) | 8496[[151]](#footnote-152) |

Specifically, granting Claverack Communications’ request to be designated a high-cost ETC will permit it to secure the release of the total 10-year support of $31,634,533 by the FCC from Auction 904 to deploy broadband-capable networks in rural underserved areas in Pennsylvania where such deployment might otherwise prove more expensive or take longer to implement. Accordingly, we determine that granting an ETC designation to an entity in those areas where it is authorized to receive Auction 904 support as a winning bidder serves the public interest.

Since an ETC designation will assist Claverack Communications to secure federal universal service high-cost support funding under RDOF Phase I in various CBGs 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 Claverack Communications 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). Accordingly, we find that designating Claverack Communication as an ETC so that it may become eligible to receive the Auction 904 federal high-cost support in the eligible census block groups located within Claverack Communications’ service territory and its designation as a Lifeline-only ETC in all other non-CAF funded geographic areas in its service territory is in the public interest.

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

Upon receiving a designation as an ETC in the CBGs throughout its service territory where it has been awarded Auction 904 federal high-cost support, the ETC is required to participate in the federal Lifeline program and must offer Lifeline service to qualified low-income eligible customers or households in Auction 904-eligible census blocks.[[152]](#footnote-153) Further, since Claverack Communications’ ETC designation comprises geographic areas where it has not been awarded Auction 904 support, Claverack Communications will be designated as Lifeline-only ETC in those areas.[[153]](#footnote-154) Claverack Communications’ Lifeline service must meet the minimum standards set forth in the FCC’s *Lifeline Reform Orders*, which have been codified at Title 47, Chapter I, Part 54, Subpart E that, which governs universal service support provided to low-income consumers. All other minimum federal requirements of the FCC’s *Lifeline Reform Orders* not expressly discussed herein, are nonetheless applicable to ETC designation requests in Pennsylvania. This includes any subsequent developments in those federal requirements.

1. **The FCC’s Rules Applicable to Claverack Governing Lifeline**

**1. 47 C.F.R. § 54.405**

**Lifeline service provider obligations.**

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

**2. 47 C.F.R. § 54.410**

**Subscriber Eligibility Determinations and De-enrollments**

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.[[154]](#footnote-155) In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.[[155]](#footnote-156) Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.[[156]](#footnote-157)

As Pennsylvania is a National Verifier state, Claverack Communications must query the NLAD to ascertain a potential Lifeline applicant’s eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline Service, the ETC may provide the consumer with an activated device that enables use of Lifeline-supported service.[[157]](#footnote-158)

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-enrolling an account from Lifeline support. [[158]](#footnote-159) There are several situations that might result in subscriber de-enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;[[159]](#footnote-160) (2) de-enrollment for duplicative support;[[160]](#footnote-161) (3) de-enrollment for non-usage;[[161]](#footnote-162) and (4) de-enrollment for failure to re-certify; and (5) de-enrollment requested by subscriber.

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

**Annual Certifications and Reporting to USAC**

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.[[162]](#footnote-163) ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.[[163]](#footnote-164)

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

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.[[164]](#footnote-165) Section 3019(f) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to these Pennsylvania statutory requirements, the Commission also has established other Lifeline eligibility criteria via orders.[[165]](#footnote-166) To the extent that federal law or federal requirements for Lifeline service have not preempted or made our Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our *PA Lifeline Order* requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual re-certification of that verification. However, we note that pursuant to the federal rules, Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC.[[166]](#footnote-167) Additionally, ETCs are required to report to the Commission annual changes in their Pennsylvania Lifeline enrollment. Thus, ETCs must certify that they will comply with relevant requirements set forth in the *Pa. Lifeline Order*, *Tracking Report Order*, and *Policy Statement*.

**C. Analysis**

Claverack Communications certifies that this satisfies 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, Claverack Communications also certifies that it satisfies and will abide by the Commission’s requirements in the Public Utility Code, our ETC Guidelines, and all other Lifeline-related orders. As a RDOF winning bidder, Claverack Communications is required to comply with the same long-form application process the FCC adopted for Auction 903.[[167]](#footnote-168) Thus, upon receipt of an ETC designation from us, Claverack Communications will be subject to a thorough financial and technical review by the FCC during the long-form application stage prior to ultimately receiving the Auction 904 support.[[168]](#footnote-169)

Since Claverack Communications has committed itself to serve low-income consumers by offering Lifeline discounts to its service offerings, we find that reliance on its commitments to meet these and other regulatory requirements, as well as representations and commitments made in its petition, is reasonable and consistent with the public interest and the Act.

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

In the event of a change of or transfer in corporate control, as defined in the Commission’s regulations at 52 Pa. Code § 63.322, Claverack Communications 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 Claverack Communications to file for renewal of its ETC designation at the same time it files any application for a change or transfer of control under our regulations.

**CONCLUSION**

We acknowledge that Claverack Communications is only required to provide certifications as part of its ETC petition and is not required to demonstrate its capability to provide service as certified. While our ETC designation process is separate from and serves a different purpose than the authorization process and post-authorization accountability measures that will be conducted by the FCC,[[169]](#footnote-170) our action to designate Claverack Communications does impose certain statutory and regulatory obligations on it once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania. Based upon our review of Claverack Communications’ Petition as supplemented, we determine that Claverack Communications satisfies all applicable and relevant FCC rules and federal requirements necessary to obtain a high-cost ETC designation for the purpose of receiving Auction 904 high-cost support as discussed above. Additionally, Claverack Communications also meets the additional requirements for ETC designation as outlined in the Commission’s Policy Statement at 52 Pa. Code § 69.2501. Further, Claverack Communications has certified that it will comply with all applicable annual reporting requirements for high-cost support recipients provided under 47 C.F.R. §§ 54.805-806 and 47 C.F.R. §§ 54.313, 54.316, and 54.320.

Consumers will benefit from the Commission’s decision to designate Claverack Communications an ETC in the townships and boroughs located throughout its service territory. Granting Claverack Communications an ETC designation allows it to receive the RDOF Phase I high-cost support funding to expand voice and broadband-capable networks with service quality that meets the FCC’s and Pennsylvania’s requirements in the listed census block groups in Appendix A attached to this Order.

As an ETC receiving federal high-cost support, Claverack Communications 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 Claverack Communications will also be providing voice and BIAS to non­Lifeline customers, we require Claverack Communications to comply with applicable Commission and FCC requirements governing the delivery of voice and BIAS to non-Lifeline consumers.

We note that with the grant of this ETC designation, Claverack Communications may replace the current incumbent price cap ETCs in the future as the only carrier receiving federal high-cost support in those census block groups within the local exchanges where it has received an ETC designation. If such relinquishment occurs, Claverack Communications, as the competitive ETC, will be required to ensure that all customers served by a relinquishing carrier in Claverack Communications’ Designated Service Area will continue to be served. Since Claverack Communications may become the entity having the ETC COLR obligation, it too must first seek to relinquish its ETC designation before ceasing to provide the qualified supported services.

Upon receipt of a federal high-cost ETC designation, a winning RDOF Phase I bidder is required to offer Lifeline services and is required to comply with the rules and requirements of the federal Lifeline program in all areas throughout its service territory.

In sum, in consideration of the Claverack Communications’ Petition for ETC designation, as supplemented, we conclude that it meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation and it is in the public interest to approve Claverack Communications’ request for designation as an ETC. As a federal high-cost ETC designee, Claverack Communications will become eligible to secure the federal high-cost support assigned to the geographic area for which it has received its ETC designation. Our finding to designate Claverack Communications as an ETC in the discrete census block groups included in Auction 904, which includes Claverack Communications’ tariffed service area in Pennsylvania is in accord with Section 214 of the Act, the FCC’s regulations and orders related to ETC designation, Section 3019(f) of the Public Utility 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 Claverack Communications, LLC 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 Claverack Communications, LLC as an Eligible Telecommunications Carrier throughout its service territory and its Designated Service Area is depicted in Appendix C attached to this Order.
3. That upon its designation as an Eligible Telecommunications Carrier throughout its service territory, Claverack Communications, LLC will become qualified to receive the federal high-cost support awarded via the Rural Digital Opportunity Fund in those Phase I-eligible census block groups located in certain local exchanges throughout the Commonwealth of Pennsylvania as listed in Appendices A and B attached to this Order.
4. That Claverack Communications, LLC is designated as a Lifeline-only Eligible Telecommunications Carriers in those geographic areas throughout its service territory where it is not receiving any federal high-cost support, including the Rural Digital Opportunity Fund support.
5. That the rules of the Federal Communications Commission regarding the redefinition process as it relates to Claverack Communications, LLC’s designation as a federal high-cost Eligible Telecommunications Carrier below the study area levels of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company and The North-Eastern Pennsylvania Telephone Company are inapplicable for the reasons set forth in this Order.
6. That Claverack Communications, LLC is required to offer Lifeline service to any eligible low-income consumers or households located throughout its service area as described in this Order.
7. That Claverack Communications, LLC shall file a tariff for its qualifying voice service that it offers in any noncompetitive local exchange located within its service territory.
8. That Claverack Communications, LLC shall file a Lifeline tariff for

Lifeline services.

1. That Claverack Communications, LLC shall submit its proposed Residential Phone Terms and Conditions 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 billing standards and practices, and disclosure of early termination and other fees.
2. That Claverack Communications, LLC shall submit a mock-up of its final marketing and promotional materials (e.g., advertisements and sales brochures) regarding its RDOF-funded interconnected VoIP service and BIAS and Lifeline service to the Bureau of Consumer Services for its review and approval for plain language requirements at 52 Pa. Code § 69.251 and compliance with all applicable regulations at 47 C.F.R. § 54.405(c) and (d) prior to distribution of these materials to the public.
3. That Claverack Communications, LLC is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by its Lifeline customers on Lifeline and other related issues.
4. That Claverack Communications, LLC shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.
5. That Claverack Communications, LLC shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.
6. That Claverack Communications, LLC shall pay the Pennsylvania’s Telecommunications Relay Service fee, E911 fees, and Pennsylvania Universal Service Fund fees for the duration of its ETC designation.
7. That Claverack Communications, LLC shall notify the Commission of any change in its network architecture that will impact its interconnected VoIP or BIAS offerings in Pennsylvania.
8. That the failure of Claverack Communications, LLC to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.
9. That the Secretary shall serve a copy of this Order on Claverack Communications, LLC, Commonwealth Telephone Company d/b/a Frontier Communications, Commonwealth Telephone Company, Frontier Communications of Canton, LLC, Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company, The North-Eastern Pennsylvania Telephone Company, the Office of Consumer Advocate, and the Office of Small Business Advocate.
10. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.
11. That this docket shall be marked closed.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

**APPENDIX A**

**RDOF-ELIGIBLE CENSUS BLOCK GROUPS COMPRISING CLAVERACK COMMUNICATIONS, LLC’S ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATED SERVICE AREA**

**CENSUS BLOCK GROUPS**

42-015-9501002 42-015-9501003 42-015-9501004 42-015-9502002 42-015-9502003 42-015-9502004 42-015-9509001 42-015-9509004 42-015-9509005 42-015-9511002 42-015-9512001 42-015-9512002 42-015-9512003 42-015-9513001 42-015-9514002 42-115-0320001 42-115-0320002 42-115-0320003 42-115-0321001 42-115-0321002 42-115-0321003 42-115-0326001 42-115-0326004 42-115-0327001 42-115-0328001 42-115-0328002 42-115-0328003 42-115-0328004 42-115-0329011 42-131-4001002 42-131-4002001 42-131-4002003 42-131-4003003 42-131-4006001 42-131-4007001

**APPENDIX B**

**LOCATION OF CLAVERACK COMMUNICATIONS, LLC’S RDOF-ELIGIBLE CENSUS BLOCKS BY INCUMBENT LOCAL EXCHANGE CARRIER LOCAL EXCHANGE AREA**

|  |  |
| --- | --- |
| **Abbreviation** | **Name** |
| CT | Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company |
| Frontier-Canton | Frontier Communications of Canton, LLC |
| Citizens NY | Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company |
| NE PA Telephone | The North-Eastern Pennsylvania Telephone Company |

**Bradford County CBGs**

9501002 CT Ulster, CT Rome

9501003 CT Leraysville, CT Rome, CT Rush

9501004 CT Leraysville, CT Rush

9502002 CT Ulster, CT Rome

9502003 CT Ulster, CT Rome

9502004 CT Ulster, CT Rome

9509001 CT Towanda, CT New Albany, CT Troy

9509004 CT Troy, CT Towanda, Frontier Canton-Canton, Frontier Canton-Troy

9509005 CT Troy, CT Towanda, Frontier Canton-Troy

9511002 CT Towanda, CT New Albany

9512001 CT Towanda CT New Albany, CT Laceyville

9512002 CT Towanda, CT New Albany

9512003 CT Towanda, CT New Albany

9513001 CT Troy, CT Towanda, Frontier Canton-Canton, Frontier Canton-Troy

9514002 CT Troy, CT Towanda, Frontier Canton-Canton, Frontier Canton-Troy

**Susquehanna County CBGs**

0320001 Citizens NY-Little Meadows, Citizens NY-Quaker Lake

0320002 Citizens NY-Little Meadows, Citizens NY-Quaker Lake, CT Lawsville, CT Rush, CT St. Joseph's

0320003 CT Lawsville, CT Rush

0321001 CT Lawsville

0321002 CT Lawsville

0321003 CT Montrose

0326001 CT Montrose

0327001 CT Rush, CT Montrose

0328001 CT Springville, CT Montrose, CT Brooklyn

0328002 CT Springville, CT Montrose, CT Brooklyn

0328003 CT Brooklyn, CT Springville

0328004 CT Brooklyn, CT Springville

0329011 NE PA Telephone-New Milford

**Wyoming County CBGs**

4001002 CT Laceyville

4002001 CT Tunkhannock

4002003 CT Laceyville, CT Noxen

4003003 CT Nicholson

4006001 CT Tunkhannock, CT Noxen

4007001 CT Noxen

1. It is in these federally funded census block groups that Claverack Communications 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 interestobligations. [↑](#footnote-ref-2)
2. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17672 para. 17 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). [↑](#footnote-ref-3)
3. *Id*. at 17667, para. 1. [↑](#footnote-ref-4)
4. *Id*. at 17725, para. 156-57. [↑](#footnote-ref-5)
5. *Id.* [↑](#footnote-ref-6)
6. *Id*. [↑](#footnote-ref-7)
7. *See generally Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM).* Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at $5.25 for stand-alone voice. However, Lifeline support for standalone voice services is set to go from $5.25 to zero after December 1, 2021, although that decision is under reconsideration at the FCC. [↑](#footnote-ref-8)
8. *Id*. at 6690-91, paras. 77-78 [↑](#footnote-ref-9)
9. *Id.* [↑](#footnote-ref-10)
10. *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (*2015 Lifeline FNPRM*); *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016) (*2016 Lifeline Modernization Order*); *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18-1026, Order issued February 1, 2019 (D.C. Cir. 2019) (*2017 Lifeline NPRM and NOI*) (collectively *Lifeline Reform Orders*). [↑](#footnote-ref-11)
11. *USF/ICC Transformation Order*, 26 FCC at 17732, para. 178. [↑](#footnote-ref-12)
12. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, (2016) (*CAF* *Phase II Auction Order*). [↑](#footnote-ref-13)
13. *Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 8257 (*Auction 903 Closing Public Notice*). [↑](#footnote-ref-14)
14. *Rural Digital Opportunity Fund; Connect America Fund*; Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (2019) (*Rural Digital Opportunity Fund NPRM*). [↑](#footnote-ref-15)
15. *Id*. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider. [↑](#footnote-ref-16)
16. *Rural Digital Opportunity Fund et al.,* Report and Order, 35 FCC Rcd 686 (2020) (*RDOF Order*). [↑](#footnote-ref-17)
17. The FCC determined that eligible areas for Phase I would include (1) the census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) any census blocks where a CAF Phase II auction winning bidder has defaulted; (4) the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier’s territory, using the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area; (6) any unserved census blocks that are outside of price cap carriers’ service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands, and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) any census blocks identified by rate-of-return carriers in their service areas as ones where they do not expect to extend broadband.  *Id*. at 691, para. 12.

    [3] *Id*. at 690, para. 9. [↑](#footnote-ref-18)
18. *Id*. at 690, para. 9. [↑](#footnote-ref-19)
19. CREC is an 82-year-old, member-owned, non-profit electric cooperative in northeastern Pennsylvania. Today, CREC serves over 16,000 customers with electric service across a 2,700-mile distribution system. CREC’s service territory encompasses an eight-county region, providing electricity to customers in Pennsylvania’s Bradford, Lackawanna, Luzerne, Lycoming, Sullivan, Susquehanna, Tioga, and Wyoming counties. CREC’s total property, lines, and equipment is valued at approximately $48 million. [↑](#footnote-ref-20)
20. *See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Rcd 13888, 13890-91, paras. 9-15 (RBATF, OEA, WCB 2020) (*RDOF Closing Public Notice*). [↑](#footnote-ref-21)
21. As a result of Auction 904, some homes and businesses would have voice as well as broadband Internet access services available with download speeds of at least 100 Mbps. [↑](#footnote-ref-22)
22. Co-Op Connections Consortium was awarded Auction 904 support in a total of eight states. [↑](#footnote-ref-23)
23. The other portion of the Co-Op Connections Consortium Auction 904 support that was awarded to Pennsylvania CBG was assigned to Tri-Co Connections. “Long-Form Applicants Spreadsheet” found on the FCC’s Auction 904 webpage per Public Notice – 417 Long-Form Applicants in Auction 904 - DA 21-170 released 2/18/2021 (Long Form Applicants Spreadsheet) [↑](#footnote-ref-24)
24. *RDOF Order*, 35 FCC Rcd at 725, para. 85. [↑](#footnote-ref-25)
25. Petition at 2-3. In December of 2020, CREC created Claverack Communications to offer retail voice and broadband services, as anticipated in CREC’s short-form application and required by Pennsylvania’s recently enacted Act 98 of 2020, P.L. No. 98-2020, which facilitates broadband access by allowing electric cooperatives to utilize existing utility poles to place fiber-optic lines. In addition, later in December, CREC and Claverack Communications submitted the necessary filing to the FCC to accept their portion of the overall RDOF support awarded to the Co-Op Connections Consortium in Auction [↑](#footnote-ref-26)
26. *RDOF Order*, 35 FCC Rcd at 722, para. 79, 726, para. 90; *RDOF Closing Public Notice*, 35 FCC Rcd at 18893-95, para. 17. [↑](#footnote-ref-27)
27. *RDOF Closing Public Notice*, 35 FCC Rcd 13893-95 para. 17; *see also* 47 C.F.R. § 54.804(b)(5). On May 24, 2021, the Commission issued a “good faith” letter to Claverack Communications stating that our review of its Petition would not be completed prior to deadline despite Claverack Communications’ good faith efforts.  Claverack Communications filed a waiver request of the Auction 904 deadline with the FCC on June 7, 2021. *Claverack Communications, LLC’s Petition for Limited Waiver and Extension of 47 C.F.R. 54.804(b)(5) RDOF Auction 904 ETC Certification Deadline*, AU Docket No. 20-34. [↑](#footnote-ref-28)
28. Petition Exhibit 3. [↑](#footnote-ref-29)
29. *See Id*. [↑](#footnote-ref-30)
30. Petition at 3. [↑](#footnote-ref-31)
31. Petition at 3. [↑](#footnote-ref-32)
32. Petition at 4. Unlike other auctions winners whose names the FCC released on December 7, 2020, Claverack Communications’ identity as an Auction 904 recipient was not publicly acknowledged by the FCC. Under the FCC’s rules for Auction 904, participants must adhere to strict non-disclosure requirements that prohibited the applicant from communicating certain auction-related information to another applicant from the auction short-form application filing deadline until the post-auction deadline for winning bidders to file long-form applications for support. The quiet period ended on January 29, 2021, and Claverack Communications was able to publicly acknowledge that it was a winning bidder in Auction 904 and submit its Petition for ETC designation that is required to obtain the RDOF funds. [↑](#footnote-ref-33)
33. Petition at 5. [↑](#footnote-ref-34)
34. May 11, 2021 Data Request (DR) Responses para. 18. [↑](#footnote-ref-35)
35. Petition at 8. [↑](#footnote-ref-36)
36. *Id*. [↑](#footnote-ref-37)
37. *Id*. at 8 to 9. [↑](#footnote-ref-38)
38. *Id* at 9. [↑](#footnote-ref-39)
39. *Id*. [↑](#footnote-ref-40)
40. *Id*. at 10. [↑](#footnote-ref-41)
41. *Id*. [↑](#footnote-ref-42)
42. *Id*. [↑](#footnote-ref-43)
43. *Id*. [↑](#footnote-ref-44)
44. *Id*. [↑](#footnote-ref-45)
45. *Id*. [↑](#footnote-ref-46)
46. 47 U.S.C. § 254(e). [↑](#footnote-ref-47)
47. 47 U.S.C. § 214(e)(6). [↑](#footnote-ref-48)
48. *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8847‑76, paras. 128-180 (1997)*.* [↑](#footnote-ref-49)
49. 47 U.S.C. § 214(e) (1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-50)
50. 47 U.S.C. § 214(e)(1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-51)
51. 47 U.S.C. § 214(e)(1)(B); *see also* 47 C.F.R. § 54.201(d)(2). [↑](#footnote-ref-52)
52. 47 U.S.C. § 214(e)(5); *see also* 47 C.F.R. § 54.207(a). [↑](#footnote-ref-53)
53. *See 2005 ETC Designation Order*,20 FCC Rcd at 6380, para. 20 (citing *Federal-State Joint Board on Universal Service*, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).  [↑](#footnote-ref-54)
54. 47 C.F.R. § 54.202(a)(1)(i). [↑](#footnote-ref-55)
55. 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement

    plan requirement for CAF recipients since it had adopted more specific measures to track

    deployment, including annual reporting of service to geocoded locations and certification of compliance

    with benchmark milestones. *See Connect America Fund et al.*, ETCs Annual Reports and Certifications,

    Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3-14 (2017) (*ETC Reporting Streamlining Order*) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards). [↑](#footnote-ref-56)
56. 47 C.F.R. 54.202(a)(2). [↑](#footnote-ref-57)
57. 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. *See generally ETC Reporting Streamlining Order*. [↑](#footnote-ref-58)
58. In the *2005 ETC Designation Order*, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the *USF/ICC Transformation Order*, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. *USF/ICC Transformation Order*, FCC Rcd 17872, para. 647and Appendix A. [↑](#footnote-ref-59)
59. 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)–(b). [↑](#footnote-ref-60)
60. 52 Pa. Code § 69.2501(a). [↑](#footnote-ref-61)
61. 47 C.F.R. § 54.201(d). [↑](#footnote-ref-62)
62. 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); *see also USF/ICC Transformation Order,* 26 FCC Rcd at 17691-94, paras. 74-89 (describing the “core functionalities of the supported services as ‘voice telephony service,’” and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements). [↑](#footnote-ref-63)
63. *USF/FCC Transformation Order*, 26 FCC Rcd at 17693, paras. 80-81; *see also* 47 C.F.R. § 54.101(b). [↑](#footnote-ref-64)
64. Petition at 8. [↑](#footnote-ref-65)
65. Petition at 8. [↑](#footnote-ref-66)
66. *Id*. at 9 and May 11, 2021 DR Responses para. 16. [↑](#footnote-ref-67)
67. Petition, Exhibit 4 at 33-34. [↑](#footnote-ref-68)
68. Petition at 19. [↑](#footnote-ref-69)
69. *See Universal Service Order*,12 FCC Rcd 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 02J-1 (rel. Jul. 10, 2002). [↑](#footnote-ref-70)
70. Petition at 8. [↑](#footnote-ref-71)
71. *Id*. [↑](#footnote-ref-72)
72. *See* April 8, 2021 DR Responses para. 12. [↑](#footnote-ref-73)
73. *Id*. [↑](#footnote-ref-74)
74. *Id* para. 19. [↑](#footnote-ref-75)
75. *Id.* para. 19. [↑](#footnote-ref-76)
76. May 22, 2021 DR Responses para. 14. [↑](#footnote-ref-77)
77. *Id*. [↑](#footnote-ref-78)
78. *Id*. [↑](#footnote-ref-79)
79. *Id*. [↑](#footnote-ref-80)
80. *Id*.para. 13. [↑](#footnote-ref-81)
81. *Id*. [↑](#footnote-ref-82)
82. *In the Matter of Lifeline and Link Up Reform and Modernization, et. Al.*, WC Docket No. 11-42, Report and Order, FCC 12-11, para. 229 (Feb. 6, 2012). [↑](#footnote-ref-83)
83. Petition Exhibit 4 at 34, April 8, 2021 DR Responses paras. 2 and 10 and May 11, 2021 DR Responses para. 9. [↑](#footnote-ref-84)
84. 47 C.F.R. §§ 54.101(a)(2) and (c). [↑](#footnote-ref-85)
85. 47 C.F.R. § 54.805(a). [↑](#footnote-ref-86)
86. 47 C.F.R. § 54.805(b). [↑](#footnote-ref-87)
87. *RDOF Phase I Auction Order*, para. 43. [↑](#footnote-ref-88)
88. *Id*. para. 32. [↑](#footnote-ref-89)
89. Petition at 9-10. [↑](#footnote-ref-90)
90. *Id.; also see* Exhibit 1. [↑](#footnote-ref-91)
91. *Id.* [↑](#footnote-ref-92)
92. *Id.* [↑](#footnote-ref-93)
93. Petition at 19-20. [↑](#footnote-ref-94)
94. *See* Petition at 14. [↑](#footnote-ref-95)
95. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101. [↑](#footnote-ref-96)
96. *Universal Service Order*, 12 FCC Rcd at 8847, para. 128; 47 C.F.R. § 54.201(e). [↑](#footnote-ref-97)
97. *Id.* at 8870, para. 169; 47 C.F.R. § 54.201(f) and (g). [↑](#footnote-ref-98)
98. *Id.* at 8866, para. 160. [↑](#footnote-ref-99)
99. *December 2014 CAF Order*,29 FCC Rcd at 15668 n.43*; see also* 47U.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”). [↑](#footnote-ref-100)
100. *Cf.* Connect *America Fund*,Report and Order, 28 FCC Rcd 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)*.* [↑](#footnote-ref-101)
101. *See Rural Digital Opportunity Fund Phase I Auction Order*, FCC 20-77, Para. 139*.* [↑](#footnote-ref-102)
102. *See* Petition at 8-9. [↑](#footnote-ref-103)
103. Petition at 10-11; *see also* April 11, 2021 DR Responses para. 4. [↑](#footnote-ref-104)
104. *Id*. [↑](#footnote-ref-105)
105. Petition at 11. [↑](#footnote-ref-106)
106. *Id*. [↑](#footnote-ref-107)
107. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). [↑](#footnote-ref-108)
108. Section 214(e)(5) of the Act provides that a CETC service area is defined as the RLEC’s study area unless and until the state commission and the FCC, taking into consideration any recommendations from the Joint Board, redefine the RLEC’s service area to be something other than its study area. [↑](#footnote-ref-109)
109. *See ETC Designation Order*, 20 FCC Rcd at 6392-95, paras. 48-53. [↑](#footnote-ref-110)
110. *RDOF Order*, 35 FCC Rcd at 727-728, paras. 91-93. [↑](#footnote-ref-111)
111. *Id.* para. 92. [↑](#footnote-ref-112)
112. *Id.* [↑](#footnote-ref-113)
113. *Id.* [↑](#footnote-ref-114)
114. The FCC has determined CAF high-cost recipients need not submit a formal five-year 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. *See generally* *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, 3-4 (rel. July 10, 2018)). [↑](#footnote-ref-115)
115. Petition at 19. [↑](#footnote-ref-116)
116. *Id*. at 15. [↑](#footnote-ref-117)
117. 47 C.F.R. § 9.20; *see also* *Ensuring Continuity of 911 Communications*, Report and Order, 30 FCC Rcd 8677 (2015). [↑](#footnote-ref-118)
118. Petition at 14. [↑](#footnote-ref-119)
119. *Id*. [↑](#footnote-ref-120)
120. May 11, 2021 DR Responses para. 12. [↑](#footnote-ref-121)
121. *See* Claverack Communications’ Residential Phone Terms and Conditions. [↑](#footnote-ref-122)
122. May 11, 2021 DR Responses para. 4. [↑](#footnote-ref-123)
123. 47 C.F.R. § 54.202(a)(3). [↑](#footnote-ref-124)
124. *See* *RDOF Order*. [↑](#footnote-ref-125)
125. *Approval of Claverack Communications LLC Authority to Operate as an Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania*,Docket No. A-2021-3024004 (Order entered April 15, 2021). The Commission’s consumer protection and quality of service regulations applicable to CLECs apply to both competitive and non-competitive services. [↑](#footnote-ref-126)
126. We note that stand-alone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa.C.S. § 3016, in any of the ILEC service area exchanges or wire centers where Claverack Communications proposes to provide CLEC services. [↑](#footnote-ref-127)
127. *See* 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 matters: (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). [↑](#footnote-ref-128)
128. 47 C.F.R. § 54.202(a)(4) [↑](#footnote-ref-129)
129. Petition at 15. [↑](#footnote-ref-130)
130. Currently, federal rules limit Lifeline funding support to $5.25 per month per subscriber for voice services. The Lifeline subscriber’s $5.25 support may also be applied to BIAS a Lifeline consumer may choose to purchase but subscribers cannot receive the $5.25 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 $5.25 monthly support to that bundle. [↑](#footnote-ref-131)
131. *See, e.g.*, *RDOF Phase I Auction* at paras. 69, 72 and 75. [↑](#footnote-ref-132)
132. 47 C.F.R. § 54.202(a)(5). [↑](#footnote-ref-133)
133. 47 C.F.R. § 54.202(a)(6). [↑](#footnote-ref-134)
134. *See* Petition at 22-28. [↑](#footnote-ref-135)
135. *See generally* April 8, 2021 and May 11, 2021 DR Responses; *see also* DR Responses generally. *See also* Mockup of Advertising/Marketing Materials and Claverack Communications LLC Residential Phone Terms and Conditions. [↑](#footnote-ref-136)
136. *See generally* April 8, 2021 DR Responses and May 11, 2021 DR Responses. [↑](#footnote-ref-137)
137. May 11, 2021 DR Responses para. 3. [↑](#footnote-ref-138)
138. 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). [↑](#footnote-ref-139)
139. *See* *December 2014* *Connect America Order*, Report and Order, 29 FCC Rcd 15644, 15663-71, paras. 50-70. [↑](#footnote-ref-140)
140. *RDOF Order*, 35 FCC Rcd at 743-744, paras. 134-35. [↑](#footnote-ref-141)
141. *Id.* at para. 134. *See also* 66 Pa.C.S. §1301. [↑](#footnote-ref-142)
142. 47 U.S.C. § 214(e)(4) (emphasis added). [↑](#footnote-ref-143)
143. *2005 ETC Designation Order*, 20 FCC Rcd 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. [↑](#footnote-ref-144)
144. 47 C.F.R. §§ 54.313, 54.314, 54.316 and 54.320(a)-(c). [↑](#footnote-ref-145)
145. 47 U.S.C. § 254(e). [↑](#footnote-ref-146)
146. *See* Appendix B. [↑](#footnote-ref-147)
147. *See generally* *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)*.* [↑](#footnote-ref-148)
148. *See* Petition at 2-3. [↑](#footnote-ref-149)
149. *Id*. at 16. [↑](#footnote-ref-150)
150. *Long-Form Applicants Spreadsheet*. [↑](#footnote-ref-151)
151. *Id*. [↑](#footnote-ref-152)
152. *Id*. at 707-708, para. 42. [↑](#footnote-ref-153)
153. As previously noted, Claverack Communications’ request for high-cost ETC designation was limited to its proposed Designated Service Area – the census block groups for which it was awarded Auction 904 support.  Claverack Communications also seeks Lifeline-only ETC designation for all other census blocks in its service area where Claverack Communications is not receiving high-cost support. Petition at 19. [↑](#footnote-ref-154)
154. 47 C.F.R. § 54.410. [↑](#footnote-ref-155)
155. In its *2016 Lifeline Order*, the FCC established the National Verifier as the entity designated to make the initial eligibility determination regarding a potential Lifeline subscriber. *2016 Lifeline Order*, 31 FCC Rcd 3962, 4007, para. 128 (2016). [↑](#footnote-ref-156)
156. New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll. [↑](#footnote-ref-157)
157. The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber’s eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively. [↑](#footnote-ref-158)
158. *See* 47 C.F.R. § 54.405(e). Every Lifeline consumer’s eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers query NLAD to verify their current Lifeline subscribers’ continued eligibility. [↑](#footnote-ref-159)
159. 47 C.F.R. §54.405(e)(1). [↑](#footnote-ref-160)
160. If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber’s household is receiving service, the service provider must de-enroll the subscriber within five business days. 47 C.F.R. § 54.405(e)(2). [↑](#footnote-ref-161)
161. If the subscribers do not use their Lifeline service at least every 30 days, they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the “cure period”). [↑](#footnote-ref-162)
162. 47 C.F.R. § 54.416. [↑](#footnote-ref-163)
163. 47 C.F.R. § 54.422. [↑](#footnote-ref-164)
164. 52 Pa. Code § 69.2501. [↑](#footnote-ref-165)
165. *In Re: Lifeline and Link-up Programs*, Docket No. M-00051871 (Order entered May 23, 2005) (*PA Lifeline Order*); *Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report*, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (*Tracking Report Order*); *Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support*, Docket No. M-2010-2164741, Final Policy Statement Order (Order entered August 2, 2010). [↑](#footnote-ref-166)
166. We acknowledge that many of the 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 developments at the federal level. For example, the creation of the National Verifier and the NLAD has made certain Pennsylvania-specific requirements for verification of Lifeline eligibility and re-certification moot. [↑](#footnote-ref-167)
167. *RDOF Order*, 35 FCC Rcd at 724-725, para. 84. [↑](#footnote-ref-168)
168. As a part of the FCC’s long-form application process, Claverack Communications must file more extensive information demonstrating to the FCC that it is legally, technically and financially qualified to receive support. Also, Claverack Communications must again certify in its long-form application that it is financially and technically qualified to meet the public interest obligations in each area for which it seeks Auction 904 support. *Id*. at 717-18, paras. 66-70. [↑](#footnote-ref-169)
169. The ETC designation that we grant to Claverack Communications simply establishes its general eligibility for receiving the awarded Auction 904 support in the eligible CBGs in Pennsylvania. [↑](#footnote-ref-170)