

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of)	
)	
Petition of Cincinnati Bell Extended)	
Territories LLC for Designation as a)	Case No. 18-1685-TP-UNC
Competitive Eligible Telecommunications)	
Carrier Within Its Connect America)	
Fund Phase II Auction Awarded Census)	
Block Group)	

**REQUEST FOR WAIVER OF
REQUIREMENT TO FILE A FIVE –YEAR PLAN**

Pursuant to Ohio Administrative Code (“OAC”) § 4901:1-6-02(E), Cincinnati Bell Extended Territories LLC (“CBET”) hereby requests a waiver of OAC § 4901:1-6-09 to the extent necessary to allow CBET to exclude a five-year plan from its application for designation as a competitive eligible telecommunications carrier (“CETC”).

I. BACKGROUND

Cincinnati Bell Inc. (“CBI”), the indirect parent of CBET, was a successful bidder in the Federal Communications Commission (“FCC”) Connect America Fund (“CAF”) Phase II auction that concluded on August 21, 2018. Subsequently, CBI assigned its winning bids to Cincinnati Bell Telephone Company (“CBT”), its ILEC subsidiary, and to CBET. As required by the FCC’s rules, all CAF auction long-form applicants must obtain ETC designation by February 25, 2019. CBET, which is authorized to provide local and long distance telephone service throughout the state of Ohio, has filed an application with the Commission for designation as a CETC within the CAF auction awarded census block group that was assigned to it by CBI.

Under OAC § 4901:1-6-09, in order to be designated a CETC, a facilities-based telephone company must file an application with the Commission demonstrating its compliance with all federal and state CETC and lifeline requirements pursuant to 47 C.F.R. §§ 54.201 to 54.209 and OAC § 4901:6-19. Furthermore, the rule requires that companies use “the most up-to-date telecommunications filing form and must include all completed exhibits as required by the form.”¹

47 C.F.R. § 54.202 specifies that, in order to be designated an ETC by the FCC, a carrier must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area. The Ohio rules, specifically 4901:1-6-09(B), by mirroring the FCC’s rules in 47 C.F.R § 54.5201 to 54.209, also require applicants to submit a five-year service improvement plan and the Ohio CETC application form specifically lists this as a requirement. However, on July 10, 2018, the FCC waived, on its own motion, the requirement that winning CAF auction bidders seeking an FCC ETC designation file a five-year improvement plan.² In this request for waiver, CBET requests that the Commission waive the five-year plan requirement for CBET, consistent with the FCC’s waiver of this requirement for CAF auction winning bidders applying for ETC designation from the FCC.

II. CBET DEMONSTRATES THAT A PARTIAL WAIVER OF OAC § 4901:1-6-09 IS CONSISTENT WITH THE OBJECTIVES OF CHAPTER 4901:1-6 OF THE OHIO ADMINISTRATIVE CODE

OAC § 4901:1-6-02(E) states that “[t]he commission may, upon application or upon a motion filed by a party, waive any requirement of this chapter, for good cause shown, other than a requirement mandated by statute from which no waiver is permitted.” OAC § 4901:1-6-09 is

¹ OAC § 4901:1-6-09(B).

² *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, DA 18-714, (July 10, 2018).

part of Chapter 4901:1-6 of the Ohio Administrative Code. Although OAC § 4901:1-6-09 requires an ETC applicant to use “the most up-to-date telecommunications filing form and must include all completed exhibits as required by the filing form,”³ the application and specific exhibits are not required by statute.

The current Commission CETC designation application form indicates that submission of a five-year service improvement plan, as required under 47 C.F.R. §54.202 for carriers seeking FCC ETC designation, must accompany the application. The FCC eliminated the five-year improvement plan requirement and the annual reporting obligations associated with the plan for CAF recipients because it found “that such obligations were no longer essential to the Commission’s ability to monitor ETC use of support for its intended purpose.”⁴ Instead, all CAF recipients are required to track deployment and file annual reports showing deployment by geocoded locations. In addition, the FCC has set specific deployment benchmarks for which CAF recipients must certify compliance. For these reasons, the FCC concluded that submission of a five-year service improvement plan was no longer necessary for CAF recipients, including those awarded support in the CAF Phase II auction.

CBET submits that for the same reasons that the FCC waived the five-year plan requirement for carriers seeking ETC designation from the FCC, this Commission has sufficient basis to waive the comparable requirement in OAC § 4901:1-6-09 for CBET. CBET also notes that its Technology and System Design Plan that was filed with the FCC CAF auction long-form application (FCC Form 683), and also provided to the Commission as part of its CETC

³ OAC § 4901:1-6-09(B).

⁴ *Id.*

application, contains details on CBET's build out plan spanning the next six years and its ability to satisfy the obligations associated with the CAF auction support.

III. CONCLUSION

For the foregoing reasons, CBET submits that it has demonstrated good cause for the Commission to waive the five-year service improvement plan requirement associated with its application for designation as a CETC in its CAF auction awarded area. Accordingly, CBET requests that the Commission grant CBET's request for wavier of the five-year plan requirement.

Respectfully submitted,

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Summary: Request Request for Waiver of Requirement to File a five-Year Plan electronically filed by Ms. Patricia L Rupich on behalf of Cincinnati Bell Extended Territories LLC