

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Application of	)	
Southern Ohio Communication Services Inc.	)	
Designation as an Eligible Telecommunications	)	
Carrier in Specified Areas to Receive Rural Digital	)	Case No. 21-0024-TP-UNC
Opportunity Fund Auction (Auction 904) Support	)	
for Voice and Broadband Services and Request	)	
for Expedited Review	)	

**MOTION FOR WAIVER OF REQUIREMENT TO FILE A FIVE-YEAR PLAN**

Pursuant to Ohio Administrative Code (“OAC”) 4901:1-6-02(E), Southern Ohio Communication Services Inc. (“SOCS”) hereby supplements its above-captioned application (“Application”) filed January 6, 2021 for designation as a competitive eligible telecommunications carrier (“CETC”), by herein requesting a waiver of OAC 4901:1-6-09 to the extent necessary to allow SOCS to exclude a five-year plan from its Application (Case No. 21-0024-TP-UNC).

**I. BACKGROUND**

SOCS is an Ohio corporation with a place of business at 219 W. Emmitt Ave., Waverly, Ohio. SOCS is a member of the NexTier Consortium (“Consortium”) that was announced as a winning bidder in the Rural Digital Opportunity Fund (“RDOF”) Phase I auction for a total of 6,467 locations in the state of Ohio with a total support amount of \$302,456.70.<sup>1</sup> On December 21, 2020, the Consortium timely notified the FCC that it would be dividing its winning bids, and identified SOCS to be the entity that would file for ETC designation for the census blocks listed

---

<sup>1</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, DA 20-1422, Attachment A (Dec. 7, 2020) (“*Auction 904 Results Notice*”). This list attached as Appendix A provides the number of locations identified for purposes of the Rural Digital Opportunity Fund Phase II auction. The actual number of FCC-defined locations is likely to change based on further analysis and FCC proceedings.

in Exhibit A of its Application (“RDOF Census Blocks”). On January 6, 2021, SOCS filed the Application with the Commission. SOCS’s receipt of federal RDOF support is conditioned upon SOCS obtaining designation as a CETC in the RDOF Census Blocks.<sup>2</sup>

## **II. SOCS REQUESTS A WAIVER OF THE APPLICATION REQUIREMENT TO FILE A FIVE-YEAR PLAN**

Under OAC 4901:1-6-09, in order to be designated as a CETC, a facilities-based telephone company must demonstrate its compliance with all federal and state CETC and Lifeline requirements pursuant to 47 C.F.R. §§ 54.201-54.209 and OAC 4901:6-19. Telephone companies must “file [their] application for CETC designation with the [C]ommission using the most up-to-date telecommunications filing form and must include all completed exhibits as required by the filing form.”<sup>3</sup>

The Commission’s current CETC High-Cost Designation Application Form requires carriers seeking CETC designation to submit a five-year plan as an exhibit to their application. FCC Rule 47 C.F.R. § 54.202 requires that federal applicants for ETC designation submit a five-year improvement plan.<sup>4</sup> The FCC, however, waived the requirement that RDOF Auction winning bidders seeking an FCC ETC designation file a five-year improvement plan.<sup>5</sup> Consequently, in this request for waiver, SOCS requests that the Commission also waive the five-year plan requirement for SOCS, consistent with the FCC’s waiver of this requirement, as the Commission has done previously for Connect America Fund Phase II (“CAF II”) applicants.<sup>6</sup>

---

<sup>2</sup> *Id.* at ¶ 16 n.15; *see also id.* ¶ 36.

<sup>3</sup> Ohio Admin. Code 4901:1-6-09 (B)(2).

<sup>4</sup> 47 C.F.R. § 54.202(a)(1)(ii).

<sup>5</sup> *Auction 904 Results Notice* at ¶ 36, FN 71, citing *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket No. 09-197 et al., 33 FCC Rcd 6696, 6699-6700 (July 10, 2018) (“*ETC Public Notice*”).

<sup>6</sup> *See In the Matter of Application of Cincinnati Bell Extended Territories LLC for Designation as a High-Cost Competitive Eligible Telecommunications Carrier*, Case No. 18-1685-TP-UNC, Finding and Order at ¶ 34 (Feb. 6, 2019) (granting Cincinnati Bell’s request for waiver of the requirement to submit a five-year

### **III. WAIVER OF THE FIVE-YEAR PLAN REQUIREMENT WOULD BE CONSISTENT WITH THE OBJECTIVES OF CHAPTER 4901:1-6 OF THE OHIO ADMINISTRATIVE CODE**

OAC 4901:1-6-02(E) states that the 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.” The requirement that CETC applicants use the Commission’s designated filing form and “include all completed exhibits as required by the filing form,”<sup>7</sup> is part of OAC Chapter 4901:1-6, waiver of which is not prohibited by statute.

As noted above, the Commission’s current CETC High-Cost Designation Application Form requires carriers to submit a five-year service improvement plan pursuant to 47 C.F.R. § 54.202(a)(1)(ii). The FCC, however, extended to RDOF Auction winners the same waivers of Section 54.202 of the FCC’s rules that the FCC previously extended to CAF II applicants.<sup>8</sup> This includes a waiver of the obligation to file a five-year improvement plan as part of an application for FCC ETC designation, which the FCC found was “no longer essential to the [FCC’s] ability to monitor ETC use of support for its intended purpose.”<sup>9</sup>

This Commission previously has granted requests for waivers of OAC 4901:1-6-09(B) pertaining to the submission of five-year improvement plans for other carriers.<sup>10</sup> SOCS submits that, for the same reasons the FCC and the Commission have previously waived the five-year plan requirement for carriers seeking ETC designation, this Commission has sufficient

---

plan).

<sup>7</sup> See *supra* n.3.

<sup>8</sup> *Auction 904 Results Notice*, at ¶ 36 n.71.

<sup>9</sup> *ETC Public Notice* at 6699.

<sup>10</sup> See *supra* n.6.

basis to waive OAC 4901:1-6-09 to the extent necessary to allow SOCS to exclude a five-year plan from its Application.

#### **IV. CONCLUSION**

For the foregoing reasons, SOCS submits that it has demonstrated good cause for the Commission to waive the five-year service improvement plan requirement associated with SOCS' application for designation as a CETC within the assigned RDOF Census Blocks. Accordingly, SOCS requests that the Commission grant SOCS's request for waiver of the five-year plan requirement.

Respectfully submitted,

February 26, 2021

/s/ Stephen E. Coran

Stephen E. Coran

Rebecca Jacobs Goldman

Lerman Senter PLLC

2001 L Street, NW, Suite 400

Washington, DC 20036

(202) 416-6744

[scoran@lermansenter.com](mailto:scoran@lermansenter.com)

[rgoldman@lermansenter.com](mailto:rgoldman@lermansenter.com)

*Counsel to Southern Ohio*

*Communication Services Inc.*

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**2/26/2021 10:43:23 AM**

**in**

**Case No(s). 21-0024-TP-UNC**

Summary: Motion Motion for Waiver of Requirement to File a Five-Year Plan electronically filed by Ms. Rebecca Goldman on behalf of Southern Ohio Communications Services Inc.