

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 17, 2019

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Eric Wooten, Public Utility Analyst II, Office of Industry Development and Market Analysis *EW*

RE: Placement of Federal Communications Commission Order DA 19-917 extending Florida's 2020 high-cost eligible telecommunications carrier certification deadline in docket file of Docket 20190119-TP – 2020 State certification under 47 C.F.R. §54.313 and §54.314, annual reporting requirements for high-cost recipients and certification of support for eligible telecommunications carriers.

In recognition of Hurricane Dorian affecting the ability of the Florida Public Service Commission to be able to make a timely recertification of Florida eligible telecommunications carriers for high-cost support, the Wireline Competition Bureau of the Federal Communications Commission released Order DA 19-917 on September 16, 2019, that grants a brief, limited waiver of the filing deadline for the Florida Public Service Commission (FPSC) to certify eligible telecommunications carriers pursuant to section 54.314(d)(1) of the FCC's rules. Under the limited waiver granted therein, the FPSC must file the section 54.314 certification through the Universal Service Administrative Company database by October 11, 2019.

Please add the attached FCC Order DA 19-917 in the above-referenced docket file.

RECEIVED-FPSC
2019 SEP 17 AM 11:25
COMMUNICATIONS SECTION

EW
Attachment

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
)

ORDER

Adopted: September 16, 2019

Released: September 16, 2019

By the Associate Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau), on its own motion, grants a brief, limited waiver of the filing deadline for the Florida Public Service Commission (FPSC) to certify eligible telecommunications carriers (ETCs) pursuant to section 54.314(d)(1) of the Commission's rules.¹ Under the limited waiver granted herein, the FPSC must file the section 54.314 certification through USAC's database by October 11, 2019.

2. Pursuant to section 54.314(a) of the Commission's rules, a state must certify annually that federal high-cost support awarded to ETCs within that state has been used and will be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."² In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2020, section 54.314 certification must be submitted to the Commission by October 1, 2019.³

3. On August 24, 2019, Hurricane Dorian formed in the Atlantic Ocean and gathered strength on its path towards the south-eastern coast of the United States. On August 30, 2019, the Federal Emergency Management Agency (FEMA) designated all Florida counties to be eligible for individual assistance through the agency's programs and the President of the United States declared a state of emergency for the entire State of Florida.⁴ The FPSC was set to meet on September 5, 2019, to vote on whether to certify to the Commission that federal high-cost support awarded to 11 ETCs within Florida had been properly used in anticipation of the October 1, 2019 certification deadline.⁵ The FPSC postponed this meeting until October 3, 2019 given Hurricane Dorian's potential landfall.⁶

¹ 47 CFR § 54.314(d)(1).

² 47 CFR § 54.314(a). ETCs not subject to the jurisdiction of the state must file the same certification. 47 CFR § 54.314(b). *See also* 47 U.S.C. § 254(e).

³ 47 C.F.R. § 54.314(d)(1).

⁴ FEMA, *Florida Hurricane Dorian (DR-3419)*, <https://www.fema.gov/disaster/notices/initial-notice-176> (last visited Sept. 16, 2019).

⁵ State of Florida Public Service Commission, *Docket No. 20190119-TP-2020 State Certification under 47 C.F.R. §54.313 and §54.314, annual reporting requirements for high-cost recipients and certification of support for eligible telecommunications carriers*, Public Service Commission, <http://www.psc.state.fl.us/library/filings/2019/08315-2019/08315-2019.pdf> (last visited Sept. 16, 2019).

⁶ State of Florida Public Service Commission, *Internal Affairs Agenda*, Public Service Commission, <http://www.psc.state.fl.us/Files/PDF/Agendas/InternalAffairs/Iapdfs/IA-09-05-19.pdf> (last visited Sept. 16, 2019).

4. The Bureau, on its own motion, grants a limited waiver of the October 1, 2019 section 54.314(d)(1) certification deadline. Generally, the Commission's rules may be waived for good cause shown.⁷ Waiver of section 54.314(d)(1) is justified by the special circumstance that the FPSC was unable to vote prior to the October 1 deadline on whether to certify that 11 ETCs had properly utilized high-cost support. A limited waiver will serve the public interest by allowing the FPSC to certify these ETCs at the October 3 meeting and then submit the required information to USAC.

5. Accordingly, IT IS ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, section 54.314(d)(1) of the Commission's rules, 47 CFR § 54.314(d)(1), IS WAIVED to the extent described above.

6. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sue McNeil
Associate Chief
Wireline Competition Bureau

⁷ 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of a filing deadline in the Commission's rules is appropriate when (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.