

**Before the  
Florida Public Service Commission**

In the Matter of )  
)  
Application of Hotwire Communications )  
Ltd. for Limited Designation as an Eligible )  
Telecommunications Carrier to Receive )  
Rural Digital Opportunity Fund (Auction )  
904) Support for Voice and Broadband )  
Services )

**APPLICATION OF HOTWIRE COMMUNICATIONS LTD. FOR LIMITED  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO  
RECEIVE RURAL DIGITAL OPPORTUNITY FUND (AUCTION 904) SUPPORT FOR  
VOICE AND BROADBAND SERVICES AND  
REQUEST FOR EXPEDITED CONSIDERATION**

Hotwire Communications Ltd. (“Hotwire”) respectfully submits this Application for designation as an Eligible Telecommunications Carrier (“ETC”) to the Public Service Commission of Florida (“Commission”) pursuant to section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), and Sections 54.201 and 54.202 of the rules and regulations of the Federal Communications Commission (“FCC”).<sup>1</sup> Hotwire participated in the FCC’s Rural Digital Opportunity Fund (“RDOF”) Phase I auction (Auction 904), and was selected as a winning bidder in 21 census blocks in Florida, comprising 2,236 locations.<sup>2</sup> However, Hotwire’s receipt of Auction 904 funding is conditioned on obtaining designation as an ETC in the eligible census blocks by June 7, 2021.<sup>3</sup> Accordingly, Hotwire seeks designation

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<sup>1</sup> 47 U.S.C. § 214(e)(2); 47 U.S.C. §§ 54.201, 54.202.

<sup>2</sup> Public Notice, *Rural Digital Opportunity Fund Phase I (Auction 904) Closes, Winning Bidders Announced*, FCC Form 683 Due January 29, 2021, DA 20-1422 (rel. Dec. 7, 2020) (“*RDOF Closing Public Notice*”).

<sup>3</sup> *RDOF Closing Public Notice* at 5, ¶ 16 n.15 (“By June 7, 2021, the long-form applicant must obtain from all the relevant states or the Commission a high-cost ETC designation(s) that cover its winning bid areas and upload the required documentation and a certification letter to its FCC Form 683.”).

only in the census blocks for which it was awarded funding, a list of which is attached hereto as Exhibit A.

Section 214(e)(2) of the Act authorizes the Commission to designate a company that meets the requirements of 47 U.S.C. § 214(e)(1), such as Hotwire, as an ETC. As demonstrated in this Application, Hotwire meets all requirements for ETC designation, and as such designating Hotwire as an ETC in the proposed areas would advance the goals of universal service and is in the public interest.

In the alternative, if the Commission will not exercise jurisdiction to review this Application because Hotwire (as described further below) provides broadband and interconnected Voice over Internet protocol (“VoIP”) services, Hotwire requests an affirmative statement from the Commission that Hotwire should seek ETC designation from the FCC. Given the extremely abbreviated time period available to seek an ETC designation from the FCC, Hotwire is contemporaneously submitting an application for an ETC designation to the FCC and has advised the FCC that it has the authority to grant it. If the Commission issues an affirmative statement disclaiming authority to grant Hotwire an ETC designation, Hotwire will promptly file it with the FCC.

In support of this Application, Hotwire states as follows:

**I. BACKGROUND**

Hotwire is a Florida limited liability company headquartered at 2100 West Cypress Creek Road, Fort Lauderdale, FL 33309. Hotwire was founded in 2000 and today serves almost 200,000 customers across 14 states—including Florida—with fiber-optic broadband, video and voice (using interconnected VoIP) service. Hotwire is a facilities-based carrier, and focuses on serving rural and remote areas across the country. With its RDOF support, Hotwire will expand

its facilities in Florida and provide 1 Gbps/500 Mbps voice and high-speed broadband Internet access services to the designated census blocks.

Hotwire does hold a certificate to provide competitive local exchange services, which it received from the Commission in 2006.<sup>4</sup> However, since 2006, Hotwire has provided voice service in Florida solely through the use of its own interconnected VoIP platform.

## **II. COMMUNICATIONS AND CORRESPONDENCE**

Pleadings, orders, notices, or other correspondence and communications regarding this Application should be provided to:

Jonathan Bullock  
EVP Corporate Development & Government  
Hotwire Communications  
3 Bala Plaza E, Suite 700  
Bala Cynwyd, PA 19004  
Telephone: 215-908-9748  
Email: [jonathan@hotwiremail.com](mailto:jonathan@hotwiremail.com)

With a copy to:

Jeffrey Carlisle  
Lerman Senter PLLC  
2001 L Street, NW, Suite 400  
Washington, DC 20036  
Telephone: 202-416-6768  
Email: [jcarlisle@lermansenter.com](mailto:jcarlisle@lermansenter.com)

## **III. HOTWIRE PARTICIPATION IN AUCTION 904**

On December 7, 2020, the FCC issued a Public Notice closing Auction 904, stating that the auction had resulted in a total of \$9.23 billion in support over ten years for extending

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<sup>4</sup> Notice of Proposed Agency Action Order Granting Certificate to Provide Competitive Local Exchange Telecommunications Services, *Application for certificate to provide competitive local exchange telecommunications service by Hotwire Communications Ltd.*, Fla. Pub. Serv. Comm'n, Docket No. 060101-TX, Order No. PSC-06-0346-PAA-TX (issued Apr. 24, 2006); Consummating Order, *Application for certificate to provide competitive local exchange telecommunications service by Hotwire Communications Ltd.*, Fla. Pub. Serv. Comm'n, Docket No. 060101-TX, Order No. PSC-06-0446-CO-TX (issued May 22, 2006).

broadband and voice services to 5,220,833 locations across the country.<sup>5</sup> In Florida, Auction 904 resulted in \$191.8 million of support for 141,625 locations.<sup>6</sup> Under the RDOF program, the FCC will disburse support to a variety of providers—including competitive providers such as Hotwire, cable operators, fixed wireless ISPs, satellite broadband, and electric utilities—enabling them to deploy broadband networks in high-cost unserved and underserved areas. The FCC’s Public Notice announced that Hotwire was among the winners, designating Hotwire as a winning bidder in 21 census block groups in Florida, amounting to 2,236 locations.<sup>7</sup>

In order for Hotwire to receive the support it won in Auction 904, it must demonstrate to the FCC that it has been designated an ETC in the areas where it was the winning bidder.<sup>8</sup> The FCC did not require that Auction 904 participants be designated ETCs at the time they filed their applications. However, winning bidders must, within 180 days of being announced as winning bidders—that is, by June 7, 2021—obtain ETC designation in the areas where they won support and submit appropriate documentation of such ETC status to the FCC.<sup>9</sup> As noted above, Hotwire has filed this application with the Commission and a contemporaneous application with the FCC should the Commission decline to exercise authority to designate Hotwire as an ETC.

#### **IV. COMMISSION AUTHORITY OVER ETC DESIGNATIONS**

The State of Florida has expressly declined jurisdiction over broadband and interconnected Voice-over Internet Protocol (“VoIP”), the supported service Hotwire plans to offer. Chapter 364.011, Florida Statutes, provides:

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<sup>5</sup> *RDOF Closing Public Notice* at 1, ¶ 1.

<sup>6</sup> *Id.* Attachment B.

<sup>7</sup> *Id.* Attachment A.

<sup>8</sup> *RDOF Closing Public Notice* at 7, ¶ 16.

<sup>9</sup> See Public Notice, *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020*, 35 FCC Rcd 6077, 6127.

Exemptions from commission jurisdiction.—The following services are exempt from oversight by the commission, except to the extent delineated in this chapter:

- (1) Intrastate interexchange telecommunications services.
- (2) Broadband services, regardless of the provider, platform, or protocol.
- (3) VoIP.
- (4) Wireless telecommunications, including commercial mobile radio service providers.
- (5) Basic service.
- (6) Nonbasic services or comparable services offered by any telecommunications company.

Consistent with this Code provision, the Commission declined to designate Viasat Carrier Services, Inc. as an ETC because it operated as a wireless satellite provider, and the FCC's Wireline Competition Bureau subsequently did so given the Commission's lack of statutory authority.<sup>10</sup> In the present case, given Hotwire will provide broadband and interconnected VoIP service, the same result under the same statute should apply here. Should the Commission decide differently, however, Hotwire provides information in this application sufficient for it to designate Hotwire as an ETC.

## **V. HOTWIRE'S QUALIFICATIONS AND NETWORK**

Since its founding in 2000, Hotwire has invested hundreds of millions of dollars in extending fiber-to-the-home service to thousands of customers across the country, and today is an experienced provider of broadband, video, and interconnected VoIP service. In Florida specifically, Hotwire was the first company in the state to build an Internet Protocol television headend, and in 2014 was the first service provider to offer Gigabit-speed broadband to customers. The superior quality of Hotwire's infrastructure and service has been publicly recognized, most recently with Cablefax Magazine naming Hotwire the Independent Operator of

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<sup>10</sup> *Telecommunications Carriers Eligible for Universal Service Support*, Order, 34 FCC Rcd 8137, 8141 (WTB 2019).

the Year in 2020,<sup>11</sup> and PCMag recognizing the extraordinarily low latency of Hotwire’s network by naming it the Best Gaming ISP in the Southeast United States.<sup>12</sup>

As noted above, Hotwire serves over 200,000 customers across the country, and thus has acquired extensive experience managing the technical and customer service-related issues associated with the provision of consumer broadband and voice services. Hotwire maintains processes to ensure consistent network performance, such as monitoring network performance on a 24/7 basis, including a fully staffed, 24/7/365 Network Operation Center and Call Center.

Hotwire’s network architecture enables its provision of a full suite of network services, as well as an ability to continue to upgrade services to customers. Hotwire’s network relies on a diverse fiber backbone connecting core routers at major node locations, and then extending the network to individual customer locations using relies on fiber-to-the-home (“FTTH”) deployments. Hotwire delivers services to individual customers using G.987.x XGS PON technology, enabling 10 Gbps upload and download capacity at extremely low latency over single mode fiber.

Specific to voice services, and consistent with how it currently provides such services, Hotwire will provide an internally designed and operated voice service and accompanying features using a High Availability and Geo-redundant Voice Feature Server by Cisco Systems Broadsoft. By delivering these services over facilities that it owns and controls, Hotwire will be able to deliver very low latency voice products that exceed all manufacturers requirements. These facilities will be monitored 24/7 from Hotwire’s Network Operations

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<sup>11</sup> Amy Maclean, “Independent Operator of the Year,” Cablefax Magazine (July 2020) at 12.

<sup>12</sup> Eric Griffith, “The Best Gaming ISPs for 2021,” PCMag (Dec. 120, 2020), available at <https://www.pcmag.com/news/best-gaming-isps-for-2021> (last visited Dec. 28, 2020).

Center using state-of-the-art monitoring platforms such as SolarWinds and Netcool ensuring we maintain our 99.9%+ network availability.

## **VI. HOTWIRE MEETS THE STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ETC**

As demonstrated herein, Hotwire satisfies each of the statutory and regulatory requirements set forth in the Act and the FCC's rules. Specifically:

1) In the census blocks where Hotwire receives ETC designation, Hotwire will provide interconnected VoIP service on a common carrier basis. As such, with respect to the interconnected VoIP services it plans to deploy in the designated census blocks, Hotwire certifies that it will operate as a common carrier under Sections 214(e)(1) and 214(e)(6) of the Act.<sup>13</sup>

2) Consistent with Section 214(e) of the Act, Hotwire will offer, throughout its supported areas, services using its own facilities.<sup>14</sup> Hotwire will construct fiber optic networks to reach customers in supported areas similar to the networks it currently uses to provide services to over 200,000 customers.<sup>15</sup> Where necessary, Hotwire may use resale of another carriers services, though Hotwire anticipates only doing so as an exception to its plan of providing service using its own facilities.

3) As required by 47 C.F.R. § 54.101, Hotwire will offer the voice telephony and broadband services supported by federal universal service support mechanisms. For RDOF

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<sup>13</sup> See 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d); Exhibit B (Declaration of Jonathan Bullock, Executive Vice President, Hotwire Communications Ltd.). Hotwire currently provides broadband services and voice service using interconnected VoIP, and thus is not considered to operate a common carrier under the FCC's rules. Once Hotwire commences services to supported locations as an ETC, Hotwire acknowledges and agrees that it would then be considered to provide common carrier service to those locations.

<sup>14</sup> 47 U.S.C. § 214(e); 47 C.F.R. 54.201(d).

<sup>15</sup> See *ETC Process Public Notice*, 33 FCC Rcd at 6698 ("Facilities are the ETC's 'own' if the ETC has exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the holding company structure.").

Phase I support recipients, the Commission defines the supported service as qualifying voice service and conditions grant of funding on the offering of qualifying broadband service.<sup>16</sup> As described below, Hotwire certifies that it will provide the following services that are supported by the federal universal service support mechanisms.<sup>17</sup>

1. *Voice Grade Access to the PSTN* – Hotwire will offer interconnected VoIP service on a standalone basis over its own fiber and switching facilities.<sup>18</sup> Hotwire will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting the FCC’s universal service requirements.

This service will include minutes of use for local service provided at no charge to end and access to emergency services via 911 or E-911. Hotwire will not distinguish between the pricing of toll and non-toll calls in the pricing of its voice service, but does apply a 2,000 minute limit to toll calls and will apply an additional charge for usage above that amount. Accordingly, it will not collect service deposits to initiate Lifeline voice-only plans in its supported areas if a subscriber voluntarily elects toll limitation service.<sup>19</sup>

2. *Broadband Internet Access Services* – Hotwire’s broadband Internet offering will provide 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.

Hotwire commits to provide these services consistent with the FCC’s high-cost universal service support rules applicable to it.<sup>20</sup> In addition, Hotwire will offer Lifeline discounts to qualifying

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<sup>16</sup> See 47 CFR § 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 *Connect America Fund et al*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692-94, 17695, paras. 77-83, 86 (2011), *aff’d sub nom. In re: FCC 11-161*, 753, F3d 1015 (10<sup>th</sup> Cir. 2014) (defining “voice telephony service” as the supported service and requiring high-cost support recipients to offer broadband as a condition of receiving support).

<sup>17</sup> See Exhibit B.

<sup>18</sup> See Public Notice, *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, 33 FCC Rcd 6696, 6698-99 (2018) (“ETC Process Public Notice”).

<sup>19</sup> 47 CFR § 54.401(c).

<sup>20</sup> See 47 CFR §§ 54.101(c), 54.805.



low-income consumers consistent with the FCC's Lifeline rules in the census blocks where Hotwire is authorized to receive RDOF Phase I support.<sup>21</sup>

4) Hotwire will offer at least one plan for Internet service at speeds of 1 Gbps/500 Mbps and at least one plan for standalone voice telephony at a rate reasonably comparable to urban rates, consistent with the FCC's annual rate surveys.<sup>22</sup>

5) Hotwire will advertise the availability of, and charges for, its supported service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of its service offerings, consistent with all applicable requirements.

Hotwire will offer and advertise its voice and broadband services through its web page, social media and other outlets such as television, web sites, and community events. Hotwire will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.<sup>23</sup>

6) Hotwire will provide the supported services throughout the designated CAF II Auction awarded service areas. Hotwire's requested ETC designated service area is limited to the census blocks identified in Exhibit A.<sup>24</sup>

7) Hotwire certifies that, in accordance with 47 U.S.C. § 254(e), it will use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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<sup>21</sup> See *id.* § 54.101(d); *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, 3974, 4074-75 (2016) (requiring all high-cost recipients to meet Lifeline obligations in all areas where they deploy a network pursuant to a broadband service obligation and are commercially offering qualifying service).

<sup>22</sup> 47 C.F.R. § 54.101(b).

<sup>23</sup> 47 C.F.R. §§ 54.201(d), 54.405(b).

<sup>24</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)).

8) Hotwire further certifies that it meets all of the applicable requirements for designation as an ETC under 47 C.F.R. § 54.202, specifically that it will comply with the service requirements applicable to the support that it receives and all buildout, service and performance requirements specific to Auction 904.<sup>25</sup> Moreover, Hotwire further certifies that its fiber optic network will have the ability to remain functional in emergency situations, it can provide at least eight hours of battery back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations.<sup>26</sup> Hotwire's fiber optic network will support telephone service using Session Initiation Protocol-based VoIP technology and will support all phone features, including 911 services.

#### **VII. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC INTEREST**

Though an applicant for an ETC designation must demonstrate that grant of the petition will serve the public interest, in the context of a high cost support auction like Auction 904, the FCC has held that "bidders demonstrate their ability to efficiently offer service through the competitive bidding process while in their short-form and long-form applications, bidders demonstrate their ability to meet their public interest obligations."<sup>27</sup> Participation in the auction and submission of short-form and long-form applications thus meets the Commission's requirement for a cost-benefit analysis for an ETC designation, obviating the need for additional specific evidence of service to the public interest.<sup>28</sup> Accordingly, as a participant and winning

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<sup>25</sup> 47 CFR § 54.805.

<sup>26</sup> 47 CFR § 54.202(a).

<sup>27</sup> *ETC Process Public Notice*, 33 FCC Rcd at 6701, citing 47 C.F.R. § 54.315.

<sup>28</sup> *Id.*

bidder in Auction 904, Hotwire has met the public interest obligations specific to an ETC designation for winning bidders of Auction 904.

Aside from the FCC's holding, grant of Hotwire's application would clearly serve the public interest. As a winning bidder in Auction 904, Hotwire is eligible to receive millions of dollars in federal funding specifically intended to bring high-quality, innovative voice and broadband services to consumers in underserved portions of Florida. The resulting expansion of FTTH service in Florida will bring expanded voice and broadband connectivity to the areas in Florida that most need it, help close the digital divide for residents of Florida, and expand economic opportunity for communities that will benefit from increased connectivity. Designating Hotwire as an ETC will also support much needed jobs in Florida by funding employees and contractors necessary to build out fiber networks and install service. Accordingly, designating Hotwire as an ETC is in the public interest.

## VIII. CONCLUSION

For the reasons stated herein, Hotwire respectfully requests that the Commission designate Hotwire as an ETC in the areas identified in Exhibit A on an expedited basis and order such other relief as may be appropriate. If the Commission will not exercise jurisdiction to review this Application, Hotwire requests an affirmative statement from the Commission that Hotwire should seek ETC designation from the FCC.

Respectfully submitted,

**HOTWIRE COMMUNICATIONS LTD.**

By: /s/ Jeffrey J. Carlisle  
Jeffrey J. Carlisle  
Lerman Senter PLLC  
2001 L Street, NW, Suite 400  
Washington, DC 20036  
(202) 416-6768

January 5, 2021

**EXHIBIT A**

**LIST OF CENSUS BLOCKS IN WHICH HOTWIRE SEEKS  
ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

120010012011	120860037023
120010016044	120860125001
120010018111	120860028002
120010022191	120110601204
120010021012	120860090101
120419502032	120860001303
120010022093	120710013001
121050123051	120210104121
121050124071	120710206005
120860140001	120150204001
120860124004	

**EXHIBIT B**

**AFFIDAVIT OF JONATHAN BULLOCK,  
EXECUTIVE VICE PRESIDENT OF HOTWIRE COMMUNICATIONS LTD.**

## **AFFIDAVIT**

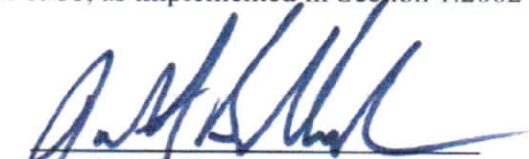
Commonwealth of Pennsylvania

Montgomery County

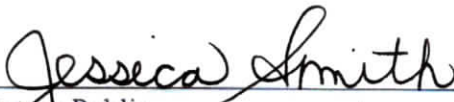
Jonathan Bullock, after being duly sworn, states the following:

1. I have personal knowledge of the facts and information set forth in this Affidavit and I am competent to testify to these facts if called as a witness.
2. I am Executive Vice President of Hotwire Communications Ltd. ("Hotwire"). Acting on behalf of Hotwire, I have read the Petition to which this Affidavit is attached. I have knowledge of the facts stated in the Petition and those facts are true to the best of my knowledge and belief.
3. Hotwire certifies that it is a common carrier under Sections 214(e)(1) and 214(e)(6) of the Communications Act of 1934, as amended ("Act").
4. Hotwire commits to provide the services and functionalities required for designation as an Eligible Telecommunications Carrier in the Census Blocks described in the Petition.
5. Hotwire certifies that it will meet all the Commission's requirements for designation as an ETC under Section 214(e)(6) of the Act.
6. I am the corporate officer that will be responsible for certifying Hotwire's use of federal high-cost support.
7. Hotwire will use the federal high-cost support that it receives only to provide, construct, upgrade and maintain facilities and services for which the support is intended.

8. Hotwire certifies that neither it nor any party to its application is subject to a denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in Section 1.2002 of the Commission's rules.

  
Jonathan Bullock  
EVP Corporate Development & Gov't  
Hotwire Communications Ltd.

Subscribed and Sworn to before  
me this 30<sup>th</sup> day of December, 2020

  
Notary Public  
My Commission Expires: 8/17/2022

