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March 10, 2021

E-PORTAL FILING

Mr. Adam Teitzman, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 20210013-TX - In re: Application for designation as an eligible telecommunications carrier to receive rural digital opportunity fund auction (Auction 904) support for voice and broadband services and request for expedited consideration, by Bright House Networks Information Services (Florida), LLC.

Dear Mr. Teitzman:

Attached for filing, please find the Supplement to Application to Address Potential Changes to Area of Applicant's ETC Designation, submitted on behalf of Bright House Networks Information Services (Florida), LLC.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions or concerns.

Kind regards,

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Enclosure (Supplement to Application)

Cc:// Office of General Counsel (Murphy)

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of)	
)	
Application of Bright House Networks)	
Information Services (Florida), LLC for)	Docket No.
Designation as an Eligible)	20210013-TX
Telecommunications Carrier to Receive Rural)	
Digital Opportunity Fund Auction (Auction)	
904) Support for Voice and Broadband)	
Services)	

**Supplement to Application to Address
Potential Changes to Area of Applicant’s ETC Designation**

Bright House Networks Information Services (Florida), LLC (“Charter”) respectfully submits this supplement to its Application for designation as an eligible telecommunications carrier (“ETC”) to address an issue that has arisen since the Application was filed on January 6, 2021.

EXECUTIVE SUMMARY

Charter, through its affiliates, currently provides modern high-speed broadband, video, mobile, and voice services to millions of customers in the State of Florida. With support from the FCC’s Rural Digital Opportunity Fund (“RDOF”), Charter will soon bring modern high-speed broadband Internet service to almost 18,000 locations¹ (spread over more than 2,300 rural census blocks) in Florida that currently lack these services. To support this expansion of its network,

¹ The FCC defines “locations” as “housing units” and “small businesses” that receive “consumer-grade broadband service.” See *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations*, Public Notice, WC Docket No. 10-90, DA 16-1363 (2016).

Charter expects to receive approximately \$22 Million in RDOF funds, which will supplement an additional investment from Charter itself.

Before it can complete this RDOF-supported expansion, however, Charter is required to obtain ETC designation from the state for the portions of census blocks where it receives RDOF support.² To that end, Charter filed its application for ETC designation in the above-styled proceeding.³

Since it filed its application, however, Charter has become aware that it is possible that census blocks which are currently included in the RDOF Census Blocks may cease to be eligible for RDOF funding if they become eligible for other state or federal programs that are also designed to support the deployment of broadband infrastructure. In light of this fact, Charter respectfully requests that the Commission do two things: (1) recognize that key aspects of the FCC's RDOF program, including assigned census blocks, locations, and service deployment milestones, are subject to change, and (2) incorporate in any ETC designation Order a mechanism to conform or 'true up' to subsequent RDOF program modifications conferred by the FCC.

Incorporating a mechanism to address potential FCC modifications into the Commission's ETC designation Order will provide greater clarity and business certainty for the critical location buildout information and timeframes necessary for Charter to bring high-speed broadband Internet

² Charter seeks ETC designation only in those full census blocks or *portions* of census blocks that are eligible for RDOF support. See *Wireline Competition Bureau and Office of Economics and Analytics Release Updated List and Map of Eligible Areas for the Rural Digital Opportunity Fund Phase I Auction*, Public Notice, DA – 20-665 (June 25, 2021), at p. 6 (stating “As the Commission made clear in the *Rural Digital Opportunity Fund Order*, eligible areas would include 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. That is, only the price cap portion of the census block is eligible.*”) (emphasis added).

³ See Application of Bright House Networks Information Services (Florida), LLC for Designation as an Eligible Telecommunications Carrier to Receive Rural Digital Opportunity Fund Auction (Auction 904) Support for Voice and Broadband Services (the “Charter Application”), filed January 6, 2021.

to thousands of Floridians who are currently unserved, and will avoid unnecessary administrative burdens by addressing this issue up front.

DISCUSSION

A. Charter's Request for ETC Status is Contingent on the FCC's RDOF Program.

Many parts of the United States – including many parts of Florida – simply do not have a population density high enough to make building out broadband Internet networks to those areas economically efficient without some form of external support. This reality has created a “digital divide”—densely populated areas have access to high-speed broadband Internet service, while many more rural areas do not. To help address the digital divide, the FCC created the RDOF program “to ensure continued and rapid deployment of broadband networks to unserved Americans” by distributing grants to communications providers to construct high-speed network infrastructure in locations where consumer demand alone will not attract investment.⁴

The FCC identified census blocks that are currently unserved⁵ by broadband Internet access, defined by the FCC as Internet access service at speeds of at least 25/3 Mbps.⁶ Through a “reverse auction” process, it awarded grants to providers who are committed to bringing high-speed broadband to those census blocks at the lowest cost.

In December 2020, the FCC named Charter (through its affiliates) as the winning bidder in 2,308 census blocks in Florida (the “RDOF Census Blocks”).⁷ Charter’s RDOF award will contribute over \$22 Million dollars to support the expansion of Charter’s network to 17,869 new

⁴ *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686 at para. 5 (Feb. 7, 2020) (*RDOF Order*).

⁵ The FCC relied on mapping data from 2019. As we discuss further below, the FCC’s data is subject to change.

⁶ *RDOF Order* at para. 5.

⁷ See Charter Application, at 9 and Exs. A, B.

locations within the RDOF Census Blocks.⁸ Without federal RDOF support, many of these areas are likely to remain without broadband service for the foreseeable future.

Charter only intends to build and seek ETC status in the eligible portions of the RDOF Census Blocks where it was awarded locations and is entitled to receive support. If the FCC changes those census blocks, therefore, there would be no Charter facilities present. Without the presence of facilities or a network in a given census block, Charter would not plan to provide service and therefore no ETC designation would be necessary or required.

B. There may be subsidized competitors that already serve, or have received funding to serve, an RDOF award recipient's census blocks.

For RDOF, the FCC determined that support would be available only for specific eligible census blocks that were wholly unserved with broadband at speeds of at least 25/3 Mbps.⁹ The FCC directed its staff to identify these unserved census blocks, compile an initial list, and conduct a challenge process.¹⁰ The FCC's staff consulted with the U.S. Department of Agriculture's Rural Utility Service ("RUS") to exclude the portions of any census blocks that substantially overlapped with the RUS' ReConnect Program,¹¹ and the staff conducted a census block challenge process to eliminate from auction eligibility any census blocks that are already served. In October 2020, the FCC's staff issued its final list of eligible census blocks, which was largely based on 2019 data.¹²

Since the creation of RDOF, however, other potential sources of federal and state funding have become available to expand broadband to rural and unserved areas. An example is the 2020 federal CARES Act, which, as part of the stimulus relief in the aftermath of the COVID-19

⁸ FCC Rural Digital Opportunity Fund Phase I Auction – Winning Bidder Summary, at 4, available at: <https://docs.fcc.gov/public/attachments/DA-20-1422A2.pdf>.

⁹ RDOF Order at para. 12.

¹⁰ *Id.* at paras. 12-14.

¹¹ *Id.* at para. 13 and FN 31.

¹² See *Wireline Competition Bureau and Office of Economics and Analytics Announce Release Final List and Map of Eligible Areas for the RDOF Phase I Auction*, 35 FCC Rcd 11283 (Oct. 8, 2020) (*Auction 904 Final List*).

pandemic, disbursed funding to the state during the 2020 calendar year for broadband infrastructure investment and required buildout of facilities by December 31, 2020. While these CARES Act funds were not distributed directly from the federal government to broadband providers, allocations of CARES Act money to the states was used by them to fund broadband deployment.

In addition to federal funding, many states have created their own state-funded broadband programs, and have awarded funds to census blocks that were part of the FCC's list of unserved census blocks compiled based on 2019 data. In some cases, these more recent federal and state efforts supporting broadband deployment overlap with RDOF assigned census blocks, including census blocks assigned to Charter.

Since it filed its Application in this proceeding, Charter has become aware that, in some states, existing service providers are already serving and/or receiving broadband subsidies under federal or state programs to serve Charter's RDOF Census Blocks. (This is an issue facing many RDOF winners, not just Charter.) These areas were ineligible for RDOF support under the FCC's rules, which expressly excluded the following categories of census blocks: (1) census blocks where a CAF Phase II Auction winning bidder must deploy broadband; (2) census blocks where a Rural Broadband Experiment support recipient must deploy broadband; (3) census blocks where a terrestrial provider offers both voice and broadband of 25/3 Mbps according to the most recent publicly available Form 477 data; (4) census blocks awarded funding through the RUS ReConnect Program; and (5) census blocks awarded funding through other similar federal or state broadband subsidy programs to provide at least 25/3 Mbps service.¹³

¹³ *RDOF Order* at paras. 12-13.

Accordingly, to the extent the FCC modifies its RDOF-awarded census blocks as a result of the presence of an existing competitor, and/or a census block is ultimately excluded based on the list above, Charter's buildout requirements could change. If those changes occur, Charter would want to make such corresponding changes to its ETC designation, which tracks the census blocks awarded to it by the FCC.

C. The FCC's location counts within census blocks are likely to change.

Given its imperfect data, the FCC also expects the location counts within its RDOF-awarded census blocks to change. Specifically, to develop its RDOF location counts, the FCC used the same location counts that it used for its Connect America Cost-Model ("CAM") – which is based on census data collected in 2011.¹⁴ Awardees must provide updated location counts to the FCC by the sixth year of the RDOF program. FCC staff, no later than the end of year six, must publish revised location counts.¹⁵ Awardees will be required to offer service to the number of locations identified in this subsequent release,¹⁶ and RDOF support amounts will be reduced in the case of substantially fewer locations within an RDOF census block.

D. The FCC's service milestones may be extended in the case of a greater number of locations in a census block.

Next, the FCC has been clear that its service deployment milestones are "interim."¹⁷ Awardees are required to commercially offer service to 40% of the CAM-calculated number of locations in the state by the end of the third full calendar year after funding authorization, and 20% each year thereafter.¹⁸ Recognizing that location counts could change significantly, the FCC will allow carriers whose location counts increase by 35% within census blocks to complete 100%

¹⁴ *RDOF Order* at para. 47.

¹⁵ *Id.* at para. 45.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

deployment by year eight (two additional years).¹⁹ While Charter intends to initiate service on a rolling basis as it deploys network facilities, it also wishes to inform the Commission that the FCC's service deployment milestones may be extended where service providers must build to substantially more locations.

E. The Commission can serve the public interest by adopting a mechanism to incorporate future changes to the RDOF Census Blocks to the area of Charter's ETC designation.

Through the RDOF program, Charter will construct new high-speed broadband networks in rural areas of Florida where there would otherwise be no such networks. Florida customers will benefit from Charter's efforts by being able to receive Charter's broadband services. Charter's efforts, however, could get delayed or derailed if, over time, the area of Charter's ETC designation does not remain consistent with the census blocks eligible for RDOF support. Maintaining consistency would be administratively efficient for both the Commission and Charter. For example, if the Commission's Order does not account for the FCC's future changes, Charter will have to seek a discontinuance of service and a relinquishment of its ETC status each time the FCC removes a census block from RDOF eligibility. This will impose unnecessary administrative burdens on the Commission and on Charter.

Incorporating the FCC's changes will result in no potential harm to the Commission or consumers, as the FCC will be the final arbiter of any changes affecting the supported census blocks or locations. Because such an incorporation mechanism will create efficiency, avoid delays and provide business certainty for RDOF participants, the Commission's adoption of such a mechanism would serve the public interest.

ACTION REQUESTED

¹⁹ *Id.* at para. 49.

Charter's Application for ETC designation relies on the RDOF Census Blocks and location counts and is contingent upon census blocks remaining eligible for RDOF funding. As discussed above, the FCC may remove a given census block from eligibility for RDOF funding. For this reason, Charter asks that any Order granting ETC designation expressly recognize that Charter's ETC-designated service area is subject to reduction if the FCC removes any census blocks from RDOF eligibility. To that end, Charter asks that the Commission include language substantively similar to the following in Charter's Order granting ETC designation:

Charter is designated as an ETC in the eligible portions of the census blocks shown in Appendix [X] where it receives RDOF support. If the FCC removes any such census block from eligibility for RDOF support, that census block will be removed from Charter's ETC-designated service area automatically and without further action by the Commission.

Charter appreciates the Commission's consideration of these matters.

Respectfully submitted: March 10, 2021.

Respectfully submitted,

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