

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Telecommunications Carriers Eligible to Receive)	WC Docket No. 09-197
Universal Service Support)	
)	
Petition of Hughes Network Systems, LLC for)	
Eligible Telecommunications Carrier Status to)	
Receive CAF Phase II Support Through the New NY)	
Broadband Program)	
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**PETITION FOR ETC DESIGNATION OF HUGHES
NETWORK SYSTEMS, LLC**

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**CONDITIONAL PETITION FOR ETC DESIGNATION OF
HUGHES NETWORK SYSTEMS, LLC**

Pursuant to Section 214(e)(6) of the Communications Act, as amended,¹ and the relevant provisions of the Commission’s rules,² Hughes Network Systems, LLC (“Hughes”) respectfully requests conditional designation as an eligible telecommunications carrier (“ETC”) in the State of New York, in all areas in which it has been awarded Connect America Fund (“CAF”) Phase II support via the New NY Broadband Program.³ On January 31, 2018, New York announced that Hughes was awarded support to serve 72,163 locations in New York through New York’s auction for state and CAF support.⁴ Hughes’s request for ETC status is limited to areas where it

¹ 47 U.S.C. § 214(e)(6).

² See, e.g., 47 C.F.R. § 54.101(a), § 54.202.

³ See *Connect America Fund, et al.*, Order, 32 FCC Rcd 968 (2017) (“*New York CAF Order*”).

⁴ See “Governor Cuomo Announces Round III of Nation-Leading New NY Broadband Program to Bring High-Speed Internet Access to All New Yorkers,” Press Release (Jan. 31, 2018) (“New York January 2018 Press Release”), <https://www.governor.ny.gov/news/governor-cuomo-announces-round-iii-nation-leading-new-ny-broadband-program-bring-high-speed>.

has been awarded such support.⁵ Hughes is obligated to obtain this ETC status within 180 days of this award, and therefore request expeditious action to conform to this requirement.⁶

I. INTRODUCTION AND SUMMARY

Hughes is the leading provider of consumer satellite broadband services in the United States, with customers throughout the country including in rural and remote areas. Hughes today provides service using three broadband satellites, including EchoStar XIX, the world's highest throughput satellite, which entered into commercial service on March 16, 2017. Hughes was the first U.S. satellite Internet service to offer FCC-defined broadband speeds across the continental United States. With a speed capacity of over 150 Gbps and over 130 Gbps forward capacity, EchoStar XIX currently provides broadband-defined speeds of 25/3 Mbps and higher for residential and enterprise users a from coast-to-coast.⁷ Hughes has also started construction on a new broadband satellite, Jupiter 3, which will provide speeds of approximately 100 Mbps.

Strategic investments in greater satellite capacity, rising upload/download speeds, broadening coverage across the continental United States, and advancements in network engineering have made satellite broadband Internet access an excellent, competitive offering for

⁵ Hughes will submit a similar petition with respect to any areas it might win in the CAF Phase II Auction (Auction 903). *See, e.g., Wireline Competition Bureau Releases List and Map of Eligible Census Blocks for the Connect America Fund Phase II Auction (Auction 903)*, Public Notice, DA 17-1219 (rel. Dec. 19, 2017).

⁶ 47 C.F.R. § 54.315(b)(5).

⁷ *See HughesNet Gen5 High-Speed Satellite Internet Service Now Available via GSA Schedule*, Yahoo! Finance (Mar. 30, 2017) ("HughesNet Satellite Internet Service"), <http://finance.yahoo.com/news/hughesnet-gen5-high-speed-satellite-130000395.html>. *See also* Andrew Burger, *HughesNet Claims First FCC Broadband Defined 25 Mbps Satellite Broadband Service*, Telecompetitor (Mar. 7, 2017), <http://www.telecompetitor.com/hughesnet-claims-first-fcc-broadband-defined-25-mbps-satellite-broadband-service/> (Jupiter 3, a next-generation satellite slated to launch at the end of the decade, which will provide even greater capacity and higher speeds to its U.S. satellite broadband consumers).

its over U.S. residential broadband customers. Coupled with unrivaled coverage across the continental United States, less costly infrastructure requirements, and fewer regulatory barriers to deployment than terrestrial broadband, satellite broadband services are the key to digitally integrating the most inaccessible and underserved parts of the country. Hughes also provides an Internet protocol (“IP”) based voice product over its network. Hughes is a facilities-based provider that focuses on the rural and remote areas that are being targeted by the CAF program and the New NY Broadband Program.

As discussed in more detail below, the Commission has the authority to grant Hughes ETC designation pursuant to Section 214(e)(6), and Hughes meets all of the statutory and regulatory requirements for such designation. Designating Hughes as an ETC to receive CAF support via the New NY Broadband Program will serve the public interest by allowing Hughes to receive support to serve the areas that it is obligated to serve pursuant to the New York award, thereby expanding the number of new locations that will receive coverage for the finite budget available.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION

Pursuant to Section 214(e)(6), the Commission may designate an ETC where the applicant “is not subject to the jurisdiction of a State commission.”⁸ The Commission has indicated that, with respect to New NY Broadband CAF support, “satellite providers must seek ETC designation directly with the FCC.”⁹ Hughes is in the process of obtaining an affirmative statement from the New York Public Service Commission verifying that it lacks jurisdiction over

⁸ *See id.* § 214(e)(6).

⁹ *Wireline Competition Bureau Releases Frequently Asked Questions for New NY Broadband Program – New York CAF Auction*, Public Notice, DA 17-416 (rel. May 3, 2017), linking to FAQs at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0503/DOC-344694A1.pdf.

Hughes as a satellite provider and will submit this statement as soon as it is received as a supplement to this petition. Given the requirement that Hughes obtain ETC status within 180 days of award of support,¹⁰ Hughes urges the Commission to process this petition without delay.

Hughes requests designation in all areas in the State of New York where it has been awarded CAF support through the New NY Broadband program.¹¹

Accordingly, Hughes requests that the Commission exercise its authority under Section 214(e)(6) to designate Hughes as an ETC, conditionally for purposes of participation in the New NY Broadband Program.¹²

III. HUGHES MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

As demonstrated herein, Hughes meets the requirements for designation as an ETC as established under the statute¹³ and FCC rules.¹⁴

A. Hughes Will Provide Service as a Common Carrier

For purposes of this designation, Hughes will provide service on a common carrier basis. Hughes currently provides broadband Internet access service and an interconnected voice over IP (“VoIP”) service. As to customers and locations where Hughes is awarded support, Hughes will

¹⁰ 47 C.F.R. § 54.315(b)(5).

¹¹ New York has announced that Hughes’s 72,163 awarded locations are in the Capital Region, Central New York, Finger Lakes, Mid-Hudson, Mohawk Valley, North Country, Southern Tier, and Western New York. *See* New York January 31 Press Release. Once the precise locations of Hughes’s award are made public, Hughes will file them with the Commission as a supplement to this petition.

¹² 47 U.S.C. § 214(e)(6).

¹³ *Id.* § 214(e)(1).

¹⁴ 47 C.F.R. § 54.201(d).

provide its voice service on a common carrier basis. As such, Hughes certifies that it is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.¹⁵

B. Hughes Offers the Services Supported by the Federal Universal Service Support Mechanisms

As described below, Hughes certifies that it provides voice telephony service supported by federal universal service support mechanisms, including the following capabilities:

1. Voice Grade Access To The Public Switched Telephone Network – Hughes meets this requirement through its provision of IP-based voice communications service that is interconnection to the public switched telephone network. This service includes minutes of use for local service provided at no charge to end users (specifically, plans are generally unlimited usage within the U.S.) and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. Hughes also commits to provide toll limitation services to qualifying low-income consumers as provided in the Commission's Rules.¹⁶
2. Broadband Internet Access Services – Hughes's broadband Internet offering provides 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.¹⁷

Hughes further commits to provide these services consistent with the Commission's high-cost universal service support rules applicable to it.¹⁸ Hughes also will offer Lifeline service as required by the Commission's rules at all locations where it has been awarded support.¹⁹

¹⁵ 47 U.S.C. § 214(e)(1), (e)(6).

¹⁶ 47 C.F.R. § 54.101(a)(1).

¹⁷ 47 C.F.R. § 54.101(a)(2). Hughes's service is not dial-up service. *Id.*

¹⁸ 47 C.F.R. § 54.101(c).

¹⁹ 47 C.F.R. § 54.101(d).

C. Hughes Provides Service Using Its Own Facilities

Hughes is a facilities-based satellite provider with its own fleet of satellites, earth stations, gateways, switching facilities, and other associated facilities and therefore meets the applicable facilities-based requirements for ETCs.²⁰

D. Hughes Will Provide Service Throughout Its Designated Service Area

Hughes commits to provide the supported service throughout its designated service area, consistent with all applicable requirements. Hughes's requested designated ETC service area is the area where it is awarded CAF support through the New NY Broadband Program.

E. Hughes Will Advertise the Availability of Its Services and Charges Using Media of General Distribution

Hughes 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 Hughes's Lifeline service offering, consistent with all applicable requirements. Hughes currently offers and advertises its satellite broadband and VoIP services, including those offerings that include all of the supported services, using radio, television, billboards, transit, print, Internet, and targeted mailings, among others. Hughes will use the appropriate media outlets to advertise its universal service offerings in a manner consistent with applicable requirements.

F. Hughes Meets the Additional Requirements for Designation as an ETC

Hughes further certifies that it meets all of the Commission's requirements for designation as an ETC under Section 214(e)(6).²¹

²⁰ 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1).

²¹ 47 C.F.R. § 54.202.

Compliance With Applicable Service Requirements. Hughes certifies that it will comply with the service requirements applicable to the support that it receives,²² including the requirements for CAF Phase II and the New NY Broadband Program.

Five-Year Plan. Hughes certifies that it will provide service to the locations for which it has been awarded support consistent with the deployment obligations associated with such support. To the extent that a more detailed plan is required once it is clear whether Hughes is the winning bidder for CAF support, Hughes will provide such a plan.²³

Ability to Remain Functional in Emergency Situations. Hughes certifies that it has the ability to remain functional in emergency situations.²⁴ In fact, satellite broadband and voice services are much less affected by natural and man-made disasters than terrestrial facilities and often become the services of choice in emergency situations. Because Hughes's facilities consist largely of geostationary satellites, they are generally unaffected by storms, earthquakes, fires, explosions, and other emergency situations that cause interruption of service to terrestrial facilities. Hughes's facilities, including its satellites and its terrestrial gateways and switching facilities, all have extensive fail-over capabilities and back-up power, including external generators at its terrestrial gateways and switching facilities. Hughes also has sufficient capacity to manage traffic spikes that result from emergency situations.

²² 47 C.F.R. § 54.202(a)(1)(i).

²³ See 47 C.F.R. § 54.202(a)(1)(ii). The Commission has generally eliminated the five-year plan from its high-cost compliance requirements for programs with specific deployment obligations as conditions of support. See, e.g., 47 C.F.R. § 54.313.

²⁴ 47 C.F.R. § 54.202(a)(2).

Consumer Protection and Service Quality Standards. Hughes certifies that it will satisfy all applicable consumer protection and service quality standards,²⁵ including those associated with the CAF program and New York State rules applicable to it as a recipient of support from the New NY Broadband Program.

IV. GRANT OF THIS PETITION WILL SERVE THE PUBLIC INTEREST

Granting Hughes the requested conditional ETC status to compete for CAF support through the New NY Broadband Program will serve the public interest.²⁶ First, Hughes has participated in the auction for funding through the New NY Broadband Program, thereby making the auction more competitive. The Commission adopted competitive bidding as the distribution mechanism in CAF in order to “distribute support in a way that maximizes the extent of robust, scalable broadband service subject to an overall budget.”²⁷ CAF Phase II resources are precious and finite; a more competitive award process will maximize their effectiveness. Granting Hughes ETC status will allow the results of this competition to be realized.

Moreover, granting this petition will advance some of the same “key objectives of the Connect America program” that led the Commission to conclude that the public interest would be served by waiving program rules to allow distribution of CAF support through the New NY Broadband Program.²⁸ Hughes’s participation will “promote the rapid deployment of advanced

²⁵ 47 C.F.R. § 54.202(a)(3).

²⁶ 47 U.S.C. § 214(e)(6); 47 C.F.R. § 202(b).

²⁷ *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17674 ¶ 25 (2011), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015, (10th Cir. 2014).

²⁸ *See New York CAF Order*, 32 FCC Rcd at 974-75 ¶¶ 19-20.

services to unserved areas”²⁹ because satellite broadband providers can provide service to rural and remote areas more quickly than terrestrial providers. Grant of this petition also will “aid the Commission’s objective of ensuring that Connect America Phase II support is used efficiently and effectively.”³⁰

V. ANTI-DRUG ABUSE CERTIFICATION

Hughes certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VI. CONCLUSION

As discussed above, designating Hughes as an ETC in New York for purposes of receiving CAF support through the New NY Broadband Program is consistent with the requirements of Section 214(e)(6) of the Act and is in the public interest. For all of the foregoing reasons, Hughes respectfully requests that the Commission designate it as an ETC in New York eligible for CAF support through the New NY Broadband Program in the areas where it has been awarded CAF support.

Respectfully submitted,

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²⁹ *Id.* at 974 ¶ 19.

³⁰ *Id.* at 975 ¶ 20.