

**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 Viasat Carrier Services, Inc. for)	
Designation as an Eligible Telecommunications)	
Carrier Pursuant to Section 214(e)(6) in Alabama,)	
California, Florida, and West Virginia)	

PETITION FOR ETC DESIGNATION OF VIASAT CARRIER SERVICES, INC.

Viasat Carrier Services, Inc. (“VCS” or the “Company”) respectfully submits this Petition for designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”),¹ and Section 54.202 of the Commission’s rules,² in all areas within Alabama, California, Florida and West Virginia in which it has been announced as a winning bidder in the Commission’s Connect America Fund Phase II Auction (Auction 903) (the “CAF II Auction”).

I. INTRODUCTION AND SUMMARY

On August 28, 2018, VCS’s parent company, Viasat, Inc. (“Viasat”), was announced as a winning bidder in the Commission’s CAF II Auction, including for service areas in Alabama, California, Florida and West Virginia.³ In accordance with Auction 903 application procedures,

¹ 47 U.S.C. § 214(e)(6).

² 47 C.F.R. § 54.202.

³ *Connect America Fund Phase II Auction (Auction 903) Closes Winning Bidder Announced FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, DA 18-887 (rel. Aug. 28, 2018) (“*Auction 903 Results Notice*”), Att. A at 9; *see also* Connect America Fund Phase II: Assignments – Assigned Census Blocks, FCC, https://auctiondata.fcc.gov/public/projects/auction903/reports/all_assigned_census_blocks (listing winning bidders).

Viasat assigned all of its winning bids to its wholly owned subsidiary, VCS.⁴ VCS has filed the FCC Form 683 long-form application for all of the winning bid areas. VCS's receipt of CAF II Auction funding is conditioned upon it obtaining designation as an ETC by February 25, 2019 in the service areas in which VCS has been awarded support.⁵ Accordingly, VCS sought designations as an ETC in each of the states in which it was selected as a winning bidder. To date, Alabama, California, Florida and West Virginia each has declined to exercise jurisdiction to designate VCS as an ETC. Therefore, VCS seeks such designation from the Commission. In this Petition, VCS seeks designation only in the Census Blocks for which it has been announced as a winning bidder under CAF II Auction in these four states, as identified in Exhibits A through D, respectively.

For administrative convenience, VCS is submitting this Petition in connection with each of the states that, to date, have declined to exercise jurisdiction to designate VCS as an ETC.⁶ As discussed in more detail below, the Commission has authority to grant VCS's petition for ETC designation pursuant to Section 214(e)(6) of the Act, and VCS meets all of the statutory and regulatory requirements for ETC designation.

⁴ See *Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 33 FCC Rcd 1428 ¶ 37 (2018) ("Auction 903 Procedures Public Notice").

⁵ *Auction 903 Results Notice* ¶ 15, n. 11 ("By February 25, 2019, 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.").

⁶ To date, VCS has received decisions granting ETC status in six states and is awaiting decisions from 10 states.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATIONS REQUESTED

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.”⁷ The state commissions of Alabama, California, Florida, and West Virginia each have declined jurisdiction:

- In Alabama, the Public Service Commission “confirm[ed] that [it] lacks jurisdiction over the telecommunications services currently provided by [VCS] and, therefore, defers to the FCC consideration of [VCS’s] request for ETC certification.”⁸
- The California Public Utilities Commission “has not asserted jurisdiction over satellite carriers,” and directed that “it is appropriate for [VCS] to go directly to the FCC to obtain ETC designation.”⁹
- Likewise, the Florida Public Service Commission found that, “as a facilities-based satellite provider, [VCS] should directly apply for Florida ETC designation with the FCC” because the “satellite technology utilized by [VCS] to provide its services has not been assessed by [the Florida Public Service] Commission before, and it is not directly addressed in [the state statute].”¹⁰
- In West Virginia, the Public Service Commission confirmed that it “does not have jurisdiction to consider [VCS’s] request to be designated as an ETC” because VCS “provides Internet proto-col-enabled service and VoIP service.”¹¹

⁷ See 47 U.S.C. § 214(e)(6).

⁸ Letter from the Alabama Public Service Commission to Counsel for VCS, Jan. 4, 2019, at 1 (appended as Exh. E).

⁹ Letter from the California Public Utilities Commission to Counsel for VCS, Oct. 23, 2018, at 2 (appended as Exh. F).

¹⁰ Florida Public Service Commission, Notice of Proposed Agency Action Order Dismissing Application for Designation as an Eligible Telecommunications Carrier, Docket No. 20180180-TX, Order No. PSC-2018-0531-PAA-TX, Nov. 13, 2018, at 2, confirmed by Consummating Order, Order No. PSC-2018-0573-CO-TX, Dec. 10, 2018 (appended as Exh. G).

¹¹ Public Service Commission of West Virginia, Commission Order, Case No. 18-1306-T-PC, Feb. 4, 2019, at 2 (appended as Exh. H).

Therefore, VCS requests that the Commission exercise its Section 214(e)(6) authority to designate VCS an ETC in all locations for which it has been identified as a winning bidder for CAF Phase II support in Alabama, California, Florida and West Virginia.¹²

III. VCS MEETS ALL STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ETC

As demonstrated herein, VCS meets the criteria for designation as an ETC under the Act and the Commission's rules.

A. VCS Will Provide Service as a Common Carrier

For purposes of this designation, VCS will provide service on a common carrier basis. VCS currently provides broadband Internet access service and VoIP service. As to locations for which VCS is identified as a winning bidder for CAF II Auction support, VCS will provide its voice service on a common carrier basis. As such, VCS is a common carrier in accordance with Sections 214(e)(1) and (e)(6) of the Act.

B. VCS Will Offer the Services Supported by the Federal Universal Service Support Mechanisms

As required by Section 54.101 of the Commission's rules, VCS will offer the voice telephony and broadband services supported by federal universal service support mechanisms, including the following capabilities:

Voice Grade Access To The Public Switched Telephone Network
– VCS will meet this requirement through its provision of an interconnected VoIP service that includes minutes of use for local service provided at no charge to end users (*i.e.*, 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. VCS will also provide toll limitation services to qualifying low-income consumers as provided in the Commission's Rules.¹³

¹² 47 U.S.C. § 214(e)(6).

¹³ 47 C.F.R. § 54.101(a)(1).

Broadband Internet Access Services – VCS’s broadband Internet access service 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.¹⁴

VCS commits to provide these services to the relevant locations consistent with applicable high-cost universal service support rules.¹⁵ VCS will also offer Lifeline service as required by the Commission’s rules at all locations where it has been awarded support.¹⁶

In addition, VCS will comply with the service requirements for CAF Phase II support recipients. VCS will offer voice telephony as a standalone service to the relevant locations and at rates that are reasonably comparable to urban rates.¹⁷ VCS 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.

C. VCS Will Provide Service Using Its Own Facilities

Viasat is a facilities-based satellite provider with its own fleet of satellites, earth stations, gateways, switching facilities, and other associated facilities. Thus, VCS will offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier’s services.¹⁸

¹⁴ *Id.* § 54.101(a)(2).

¹⁵ *Id.* § 54.101(c).

¹⁶ *See id.* § 54.101(d).

¹⁷ *Id.* § 54.101(b); *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶¶ 80-81 (2011).

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

D. VCS Will Provide Service Throughout Its Designated Service Area

VCS commits to providing the supported services throughout its ETC designated service area, which consists of the Census Blocks identified in Exhibits A through D hereto, consistent with all applicable requirements of the CAF Phase II program.¹⁹

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

VCS will advertise the availability of its universal service offerings and charges for such offerings using media of general distribution,²⁰ namely through a combination of digital and traditional media, such as the Internet, outbound email, advertising via radio, newspapers, magazines or other print advertisements, outdoor advertising, or direct marketing, and will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.²¹

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

VCS further certifies that it meets all of the applicable requirements for designation as an ETC under 47 C.F.R. § 54.202 as follows:²²

Compliance with Applicable Service Requirements. VCS certifies that it will comply with the service and performance requirements applicable to the support that it receives,²³ including the requirements of the CAF II Auction. VCS's capabilities for providing the services in accordance with these requirements are

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

²⁰ 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2).

²¹ 47 C.F.R. § 54.405(b).

²² The Commission waived the requirement for a winning bidder to file a five-year plan, 47 C.F.R. § 54.202(a)(1)(ii), as part of the ETC designation process and to demonstrate that it will satisfy applicable consumer protection and service quality standings, *id.* § 54.202(a)(3). *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, at 4-5 (rel. July 10, 2018).

²³ 47 C.F.R. § 54.202(a)(1)(i).

detailed in its FCC Form 683 long form application²⁴ and are incorporated by reference.

Ability to Remain Functional in Emergency Situations. Viasat has been providing high speed Internet service to customers on 24 hours x 365 days a year mode for more than thirteen years. As part of providing this commercial service, it is necessary to have in place contingency plans for credible emergency situations for each of the major network facilities that are geographically distributed across the United States. These plans contain activation, required staffing, escalation, and communication procedures to deal with such emergencies. Additionally, all the ground-based facilities are equipped with independent power generators and sufficient fuel to operate for several days so as to mitigate power outages. The design of these facilities contains multiple levels of redundancy and autonomy that also mitigate the need for dedicated human interaction. VCS plans to apply this successful model to its CAF II Auction services and customers.

IV. GRANT OF THIS PETITION WILL SERVE THE PUBLIC INTEREST

In the Commission's recent *Order on Reconsideration* concerning the CAF program, the Commission described holding the CAF II Auction as a step to "the goal of closing the digital divide for all Americans, including those in rural areas of our country."²⁵ As a winning bidder in the CAF II Auction, VCS is eligible to receive funding support over the next ten years to bring high-quality, innovative voice and broadband services to consumers in the locations in California and Florida for which it has been identified as a winning bidder. As evidenced by VCS's Form 683 long-form application, the voice and broadband services VCS proposes to deploy with the funds would advance the goal of the CAF II Auction, and thereby advance the goals of universal service.

²⁴ See Viasat Carrier Services, Inc., Form 683, Initial Project Overview (filed Oct. 15, 2018).

²⁵ *Connect America Fund*, Order on Reconsideration, 33 FCC Rcd 1380, ¶ 1 (2018).

V. ANTI-DRUG ABUSE CERTIFICATION

VCS certifies that neither it nor any party to this Petition is subject to a denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

VI. CONCLUSION

For the reasons stated herein, VCS respectfully requests that the Commission designate VCS as an ETC in Alabama in the areas identified in Exhibit A, in California in the areas identified in Exhibit B, in Florida in the areas identified in Exhibit C, and in West Virginia in the areas identified in Exhibit D.

Respectfully submitted,

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February 19, 2019

LIST OF EXHIBITS

Exhibit A – List of Census Blocks for which Viasat has been selected as a winning bidder in Alabama

Exhibit B – List of Census Blocks for which Viasat has been selected as a winning bidder in California

Exhibit C – List of Census Blocks for which Viasat has been selected as a winning bidder in Florida

Exhibit D – List of Census Blocks for which Viasat has been selected as a winning bidder in West Virginia

Exhibit E –Alabama Public Service Commission Decision

Exhibit F –California Public Utilities Commission Decision

Exhibit G –Florida Public Service Commission Decision

Exhibit H –Public Service Commission of West Virginia Decision

EXHIBIT A

List of Census Blocks for which Viasat has been selected as a winning bidder in Alabama

010670304001119	010872322001011	011190115001119	010770115022031
010419636001047	011056868001026	010539698001188	011091892002044
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011190113002064	011190113002122	010919731001071	010399617001118
010670301001040	010439653001030	010179543005104	011056871004015
011310352001027	010150020004023	011210103011122	010550105022053
010799792005176	010499610003019	010359602001006	010070100034090
011210110001070	010259580021130	011239625013000	011250106011044
010890102001138	011091893003090	010610502002004	010950310003019
010450201003028	010399623001065	010399629001083	011030051071051
010359606002107	010919729001108	010810421023003	010379611001245
010279592003046	011250101021081	010439642001008	010399616001109
010650402001076	011170305021204	011170304082030	010570204004083
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011056868002107	011310352001142	010610506002115	010670303003004
011239619002090	010599731001160	010150015001000	010279591001065
011239619002036	010179538003040	010950301001128	010670303002044
010510302001058	011170307011028	010730113011066	011110001001011
010299596001094	010810419001073	011239625011036	010950301001151
010770113001169	010919731001077	010730114001025	010550110022000
011056868001037	010919729005054	010259578003033	011091887001002
010670301002085	011056868001047	010990757002084	010950302023068
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010399629002065	010479569002022	011250107031196	011250101023131
011190113001058	010670301001015	011310352001124	010539704001107
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010479570001142	010670304002044	011239625021077	010150004003041
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010770113002054	010479569001041	011150404022003	010199559003010
010479569001086	010379610003092	010439645001065	010990756001190
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EXHIBIT B

List of Census Blocks for which Viasat has been selected as a winning bidder in California

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EXHIBIT C

List of Census Blocks for which Viasat has been selected as a winning bidder in Florida

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EXHIBIT D

List of Census Blocks for which Viasat has been selected as a winning bidder in West Virginia

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Exhibit E

Alabama Public Service Commission Decision



STATE OF ALABAMA

ALABAMA PUBLIC SERVICE COMMISSION
P. O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

JEREMY H. ODEN, ASSOCIATE COMMISSIONER

CHRIS "CHIP" BEEKER, JR., ASSOCIATE COMMISSIONER

JOHN A. GARNER, EXECUTIVE DIRECTOR

January 4, 2019

Michael P. Donahue
MARASHLIAN & DONAHUE, PLLC
The CommLaw Group
1420 Spring Hill Road, Suite 401
Tysons, Virginia 22102

Re: Viasat Carrier Services, Inc. Eligible Telecommunications Carrier Certification Request

Dear Mr. Donahue:

By application filed with this Commission on September 27, 2018, Viasat Carrier Service, Inc. ("Viasat"), seeks the Commission's recommendation that it be designated an eligible telecommunications carrier ("ETC") by the Federal Communications Commission ("FCC"). Following a thorough review, however, we find that this Commission has no statutory authority over the services provided by Viasat. Per FCC Public Notice, DA 18-714, released July 10, 2018:

Congress gives primary authority for ETC designations to state commissions. The FCC has authority only when "a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission." The FCC places the burden of proof upon the petitioner seeking an FCC ETC designation to demonstrate that the FCC has jurisdiction. (par. 3)

This letter confirms that the Alabama Public Service Commission lacks jurisdiction over the telecommunications services currently provided by Viasat and, therefore, defers to the FCC consideration of Viasat's request for ETC certification.

Respectfully,

A handwritten signature in black ink, appearing to read "John A. Garner", is written over the word "Respectfully," and extends to the right.

John A. Garner
Executive Director

cc: Walter L. Thomas, Secretary
Darrell A. Baker, Utility Services Div.

Exhibit F

California Public Utilities Commission Decision

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 23, 2018

VIA U.S. MAIL AND EMAIL

Nathaniel J. Hardy
Marashlian & Donahue, PLLC
1420 Spring Hill Road, Suite 401
Tysons, VA 22102
E-mail: njh@CommLawGroup.com

Mr. Hardy:

This is in response to your request for a statement from the California Public Utilities Commission (CPUC or Commission) regarding the eligible telecommunications carrier (ETC) designation for Viasat Carrier Services (Viasat).

Viasat is a satellite communications provider. Viasat's parent company, Viasat Inc., has a Certificate of Public Convenience and Necessity (CPCN) from the CPUC. Viasat Inc. was selected as a winning bidder in California under the FCC's Connect America Fund Phase II Auction (CAF II Auction). However, Viasat's receipt of CAF II Auction funding is conditioned upon Viasat obtaining designation as an ETC in eligible Census Blocks by February 25, 2019.

The CPUC may designate an applicant as an ETC, provided the Commission has jurisdiction over the carrier seeking ETC designation.

47 USC § 214(e)(6) reads in relevant part as follows:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the [FCC] shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service are designated by the Commission consistent with applicable Federal and State law.

The Commission has not asserted jurisdiction over satellite carriers. Therefore, it is appropriate for your client to go directly to the FCC to obtain ETC designation.

This opinion is an informal response from the Commission's Legal Division staff and is not binding on the Commission, which speaks through its decisions. Please contact me at (415) 703-2053 if you have any further questions.

Sincerely,

/s/ **JUDITH ALLEN**
Judith Allen
Attorney

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
E-mail: Judith.Allen@cpuc.ca.gov

Exhibit G

Florida Public Service Commission Decision

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.

DOCKET NO. 20180180-TX
ORDER NO. PSC-2018-0531-PAA-TX
ISSUED: November 13, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER DISMISSING APPLICATION FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Viasat Carrier Services, Inc. (Viasat) is a wholly-owned subsidiary of Viasat, Inc. (VSI), which offers voice over internet protocol (VoIP) and broadband services through the use of their geostationary-satellite orbit satellite technologies. On August 28, 2018, VSI was selected as a winning bidder under the Federal Communications Commission's (FCC) recent Connect America Fund Phase II Auction. The Connect America Fund is a form of high-cost support that is part of the federal universal service fund.

The FCC did not require auction participants to be designated as Eligible Telecommunications Carriers (ETCs); however, winning bidders must obtain ETC designation within 180 days. Viasat must obtain ETC designation for 685 Census Blocks Groups covering Florida by February 25, 2019. Section 214(e)(2) of the Telecommunications Act of 1996 authorizes state commissions to designate common carriers as an ETC. In cases where a state commission lacks jurisdiction, Section 214(e)(6) provides that the FCC will make such ETC designations.

Currently, this Commission only evaluates wireline ETC applications, while wireless providers' ETC applications are evaluated by the FCC. In 2011, legislation was passed that removed our authority to designate wireless providers, including commercial mobile radio service providers, as ETCs.¹ Chapter 364.011, Florida Statutes (F.S.), outlines the types of service that are exempt from our jurisdiction and oversight. Specifically, Chapter 364.011, F.S., provides:

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.

On September 27, 2018, Viasat filed a petition for designation as an ETC with this Commission. Viasat requests that we find that it meets all requirements for ETC designation. In the alternative, Viasat seeks an affirmative statement that we do not have jurisdiction, and that Viasat should petition the FCC for ETC designation.

Decision

Pursuant to federal law, we have the authority to designate carriers as ETCs if they meet certain requirements.² In 2011, the Florida Legislature removed our authority to designate wireless providers as ETCs.³ Accordingly, effective July 1, 2012, we only evaluate wireline ETC applications, while wireless providers must directly apply with the FCC for Florida ETC designation. Furthermore, Section 364.011, F.S., provides that wireless telecommunications, including commercial mobile radio service providers, are exempt from oversight by this Commission.

Viasat is a facilities-based satellite provider that currently offers broadband Internet access and VoIP services. The satellite technology utilized by Viasat to provide its services has not been assessed by this Commission before, and it is not directly addressed in Section 364.011, F.S. However, like wireless providers, a satellite provider is not a wireline provider. As such, we do not find it appropriate to grant Viasat limited ETC status in Florida for the purpose of receiving Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services because this Commission only evaluates wireline ETC applications. We further find that, as a facilities-based satellite provider, Viasat should directly apply for Florida ETC designation with the FCC.

¹ 2011 FL H.B. 1231, Adopted May 5, 2011.

² Section 214(e)(2) of the Telecommunications Act of 1996.

³ 2011 FL H.B. 1231, Adopted May 5, 2011.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Viasat Carrier Services, Inc.'s Application for Designation as an Eligible Telecommunications Carrier is hereby dismissed as this Commission only evaluates wireline ETC applications and Viasat should directly apply for Florida ETC designation with the Federal Communications Commission. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 13th day of November, 2018.


CARLOTTA S. STAUFFER
Commission Clerk

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MAD

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 4, 2018.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.

DOCKET NO. 20180180-TX
ORDER NO. PSC-2018-0573-CO-TX
ISSUED: December 10, 2018

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-2018-0531-PAA-TX, issued November 13, 2018, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order, in regard to the above mentioned docket. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-2018-0531-PAA-TX has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 10th day of December, 2018.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MAD

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any judicial review of Commission orders that is available pursuant to Section 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Exhibit H

Public Service Commission
of West Virginia Decision

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4th day of February 2019.

CASE NO. 18-1306-T-PC (REOPENED)

VIASAT CARRIER SERVICES, INC.,
a wholly-owned subsidiary, Carlsbad, California.

Petition for consent and approval to be designated
as an eligible telecommunications carrier.

COMMISSION ORDER

The Commission does not have jurisdiction to consider the application of Viasat Carrier Services, Inc. (Viasat) for designation as an Eligible Telecommunications Carrier (ETC).

BACKGROUND

Viasat provides internet protocol-enabled service and voice-over Internet protocol (VoIP) service. W.Va. Code §24-2-1(e) provides, "The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service."

On December 17, 2018, a Recommended Decision was issued that correctly found that the Commission does not have jurisdiction to consider Viasat's request for designation as an ETC. The Ordering Paragraph provided that the "matter is dismissed as withdrawn." Rec. Dec. at 2.

On December 28, 2018, Viasat filed Exceptions to the Recommended Decision, explaining that a Commission decision granting the withdrawal of the Petition was not sufficient to enable Viasat to seek ETC designation from the Federal Communications Commission (FCC). The FCC requires "an affirmative statement from the state commission or a court of competent jurisdiction that the carrier is not subject to the state Commission's jurisdiction." Viasat Exceptions at 1-3.

DISCUSSION

Because Viasat provides Internet protocol-enabled service and voice-over Internet protocol (VoIP) service, the Commission does not have jurisdiction to consider Viasat's request to be designated an ETC. W.Va. Code §24-2-1(e).

FINDING OF FACT

Viasat provides Internet protocol-enabled service and VoIP service.

CONCLUSION OF LAW

The Commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. W.Va. Code §24-2-1(e).

ORDER

IT IS THEREFORE ORDERED that the Exceptions filed by Viasat Carrier Services, Inc. are granted. The Commission does not have jurisdiction to consider Viasat's request to be designated as an ETC.

IT IS FURTHER ORDERED that the Recommended Decision issued on December 17, 2018, as modified by this Order, is adopted as a final Commission decision.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell
Executive Secretary

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