



August 26, 2020

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*
WC Docket No. 18-89

Dear Ms. Dortch:

JAB Wireless, Inc. dba Rise Broadband (“Rise Broadband”) writes to reiterate the necessity for the Commission to reimburse Rise Broadband for the costs it incurs to remove and replace “covered company” equipment prior to the effective date of final rules in this proceeding regarding the terms for removal, replacement and reimbursement.

Rise Broadband Received USF Funds and Complied with Build-out Milestones

As the Commission is aware, Skybeam, LLC, a wholly owned subsidiary of Rise Broadband, is the recipient of \$16.9 million in Rural Broadband Experiment (“RBE”) support for 10 rural Study Area Codes (“SACs”) in Illinois, Iowa, Kansas, Nebraska and Texas. As such, it is an Eligible Telecommunications Carrier (“ETC”) for the SACs in each of those five states. Since being approved for RBE support in 2015, Rise Broadband has met all of its build-out milestones and is beginning the verification process with USAC to confirm that voice and broadband service is available to 100 percent of the SACs’ locations.¹

Rise Broadband Deployed ZTE Equipment, but is Not Required to Remove and Replace Yet

For its RBE build-out, in 2015 Rise Broadband selected equipment manufactured by ZTE Corporation (“ZTE”). Overall, Rise Broadband has deployed 402 sectors, or access points, that use ZTE equipment, of which 199 are used in RBE-supported networks. Rise Broadband selected ZTE as its vendor because of the components’

¹ Based on extensive analysis and verification, Rise Broadband has asked the Commission for a waiver of its obligation to serve 100 percent of Commission-identified locations for the nine SACs where it has determined that the actual number of locations is less than the Commission’s estimate. See Skybeam, LLC Request for Waiver, WC Docket Nos. 10-90 and 14-58 (filed April 2, 2020); Skybeam, LLC Supplement to Request for Waiver, WC Docket Nos. 10-90 and 14-58 (filed April 17, 2020); Skybeam, LLC Second Supplement to Request for Waiver, WC Docket Nos. 10-90 and 14-58 (filed June 19, 2020).



expected performance, relatively low cost, as well as ZTE’s Citizens Broadband Radio Service (“CBRS”) upgrade capability through anticipated software updates.² As required of ETCs that deployed ZTE equipment, Rise Broadband submitted its cost information into the portal under its Skybeam, LLC subsidiary by the May 22, 2020 deadline.³

On June 30, 2020, the Commission’s Public Safety and Homeland Security Bureau (“Bureau”) designated ZTE as a “covered company” and ordered that ETCs, including Rise Broadband, may no longer use RBE support “to purchase, obtain, maintain, improve, modify, or otherwise support any such equipment or services.”⁴ Rise Broadband is complying with the requirements of the *ZTE Designation Order*.

In the *ZTE Designation Order*, the Bureau declined “to delay any final determination of ZTE until such time as a reimbursement mechanism is established.”⁵ The Bureau added that “[w]hile we recognize that prohibiting the use of USF funds for ZTE equipment or services may burden USF recipients who use such equipment or services, as the Commission explained in the *Order*, that burden pales in comparison to the cost of delaying implementation of this designation and allowing USF support to be used to fund equipment and services that threaten our national security.”⁶ The Bureau indicated, however, that its designation of ZTE as a “covered company” “does not require any USF recipient to remove and replace existing equipment. Rather, the effect of this designation is to prohibit the future use of USF support to purchase, obtain, maintain, improve, modify, or otherwise support any such equipment or services.”⁷

Nevertheless, CBRS Rules Require Rise Broadband to Remove or Replace Non-Compliant Equipment

While the “covered company” designation may not require equipment replacement today, the Commission has determined that all Part 90 3650-3700 MHz Service operations must be transitioned to Part 96 CBRS operations by October 17, 2020.⁸ This transition will require equipment replacement in 241 sectors, or access points, that use ZTE 3650-3700 MHz equipment, of which 175 are used in Rise

² See Comments of JAB Wireless, Inc., WC Docket No. 18-89, et al. (filed Feb. 3, 2020) (“Rise Broadband Comments”) at 3.

³ See *Public Notice*, “Wireline Competition Bureau and Office of Economics and Analytics Open Reporting Portal for Supply Chain Security Information Collection,” 35 FCC Rcd 1440 (2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, Order, 35 FCC Rcd 2998 (2020) (extending deadline to May 22, 2020).

⁴ *Order*, PS Docket No. 19-352, DA 20-691 (rel. June 30, 2020) (“*ZTE Designation Order*”) at 15, ¶ 30.

⁵ *Id.* (citation omitted).

⁶ *Id.* (footnote omitted).

⁷ *Id.*

⁸ See *Order*, WT Docket No. 18-353 (rel. March 19, 2020) (“*Blanket Waiver Order*”).



Broadband's RBE-supported network. In a Petition for Waiver request it submitted on December 20, 2019, 2020, Rise Broadband asked the Commission for additional time to complete the Part 96 transition pending resolution of the proceeding in the above-referenced docket. Rise Broadband explained that "it would be extremely imprudent for Rise Broadband to invest significant funds to replace certain of its Part 90 equipment without any assurance that it would be subject to reimbursement."⁹

The upcoming CBRS transition deadline thus places Rise Broadband in a difficult position. On one hand, Rise Broadband is incentivized to replace its 3650-3700 MHz ZTE equipment in order to comply with the October 17, 2020 transition deadline and to continue providing uninterrupted service to rural customers, many of whom have little or no choice in broadband service providers. However, Rise Broadband cannot use RBE support to replace or upgrade ZTE equipment with other ZTE equipment or ZTE upgrades in light of the *ZTE Designation Order*. As an RBE recipient and ETC, Rise Broadband has invested significant sums of its own, and USF, funds to deploy broadband to unserved rural Americans in 10 rural communities, an obligation it has met in a timely fashion. But it can no longer use RBE support "to purchase, obtain, maintain, improve, modify, or otherwise support any such equipment or services." Essentially, a substantial amount of Rise Broadband's RBE funds can no longer be used to support Rise Broadband's existing RBE network. Rise Broadband understands that obtaining waiver of the October 17, 2020 transition deadline is uncertain, and that waiver could increase burdens for Spectrum Access System administrators to incorporate Rise Broadband's legacy facilities.

On the other hand, the *ZTE Designation Order* relates to future compliance (i.e., from June 30, 2020 forward) but expressly does not establish a process for reimbursement for replacing the same equipment. As Rise Broadband stated in its Comments, "[w]hile the Commission needs to decide which costs are reimbursable, it should allow ETCs to begin removing and replacing 'covered company' equipment, including inventory, as soon as possible to advance the Commission's policy objectives."¹⁰

⁹ Petition for Waiver of JAB Wireless, Inc., ET Docket No. 18-353 (filed Dec. 20, 2019) at 11. *See also* Rise Broadband Comments at 4 ("Rather than embark on multiple cycles of equipment removal and replacement to meet these different obligations, it would be far more efficient for Rise Broadband to be able to comply with all of its federally mandated equipment change-outs with a single substitution process."). The *Blanket Waiver Order* had the effect of granting Rise Broadband's December 20, 2019 waiver request for a six-month period.

¹⁰ Rise Broadband Comments at 1-2. *See also* Letter from Carri Bennet, Rural Wireless Association General Counsel, to Marlene H. Dortch, FCC Secretary, WC Docket No. 18-89 (filed July 2, 2020) ("RWA members expressed concern over their ability to receive reimbursement funding should they begin replacement of covered equipment now.").



Rise Broadband Will Proceed with Replacement Now and Advance the Commission's Aims

Given Rise Broadband wants to both comply with the Part 96 transition and eliminate “covered company” equipment from its networks, in light of the October 17, 2020 deadline, Rise Broadband has made the decision to begin replacing the ZTE equipment with non-“covered company” equipment now rather than retaining that equipment in the network and waiting to prevail on the Commission to grant a waiver of the Part 96 transition based on the current uncertainty surrounding the reimbursement rules.

Accordingly, Rise Broadband renews its request that the Commission reimburse Rise Broadband for the removal and replacement of its ZTE equipment to the extent those costs arise after the June 30, 2020 final designation of ZTE as a “covered company” and before the Commission finalizes its reimbursement rules. Although it could justify a waiver of the October 17, 2020 transition deadline, Rise Broadband has decided to begin to remove and replace its ZTE equipment without the assurance that it ultimately will be reimbursed for those significant equipment and labor costs. In proceeding without any such assurance, Rise Broadband will be replacing its 3650-3700 MHz ZTE equipment with a proprietary solution instead of a similar carrier-grade LTE platform. Thus, Rise will expend significant funds to both meet the Part 96 transition deadline and eradicate ZTE equipment from its network, results that are consistent with Commission policies, while at the same time lowering its replacement costs.

Rise Broadband is taking all responsible steps to ensure that it would not recover any costs beyond what any other ETC might claim. In addition to providing cost estimates in the portal, Rise Broadband is continuing to carefully track all of its costs to remove and replace its ZTE equipment.

By making this decision, Rise Broadband is taking the initiative to eliminate “covered company” equipment from its networks and complete the CBRS transition as expeditiously as possible. Rise Broadband’s desire to meet the October 17, 2020 transition deadline and to eradicate communications equipment that has been determined to pose a threat to our national security are strong incentives to begin the equipment removal and replacement process now. Rise Broadband’s reasoned and appropriate decision should not prevent it from receiving the reimbursements that other ETCs will obtain when the Commission finalizes its rules.



Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed electronically in the above-referenced docket.

Respectfully submitted,

/s/ Jeff Kohler

Jeff Kohler

Co-Founder and Chief Development Officer

cc: Justin Faulb (WCB)
Nirali Patel (WCB)
Kris Monteith (WCB)
Aaron Garza (CGB)
Ramesh Nagarajan (WCB)
Janice Gorin (WCB)
Doug Klein (OGC)