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In the Matter of)	
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Brazos Valley Council of Governments)	WC Docket No. 02-60
)	
Request for Review of Decision)	
of the Universal Service Administrator and)	
)	
Petition for Waiver)	
)	

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November 18, 2019

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**REQUEST FOR REVIEW OF DECISION OF THE
UNIVERSAL SERVICE ADMINISTRATOR
AND
PETITION FOR WAIVER**

Brazos Valley Council of Governments (“BVCOG”), by its counsel and pursuant to 47 C.F.R. Section 54.719(a) and (c),¹ hereby seeks a waiver of 47 CFR § 54.634 and such other Rules as may be necessary to permit USAC to extend the funding end date for FRN 16819841 to June 30, 2020, to enable BVCOG to regain access to and to utilize the Rural Health Care Program funding that it was previously granted therein for equipment to be installed in conjunction with the construction of its fiber network, as described herein.

USAC’s extension of the invoice deadline is necessary to serve the Commission’s policies and to promote the public interest. Grant of such waiver is necessary and justified in this case to ensure that BVCOG will be able to complete construction and activation of the Brazos Valley Council of Governments Network (“Brazos Valley COGNet”), a 320-mile, 100 Gb backbone that will serve rural health care facilities across the Brazos Valley in Central Texas. Completion of the

¹ See 47 C.F.R. §§ 54.719(a) (permitting requests for review of “an action taken by the Administrator”) and 54.720(c) (directing requests for waiver to be made to the Commission).

COGNet is vital to the health, safety, and welfare for thousands of Brazos Valley residents and the many travelers who pass through the region daily.

I. STATEMENT OF INTEREST

The Commission's Rural Health Care ("RHC") program provides critical support for the construction of telecommunications networks and access to dependable, high capacity communications services by rural health care providers ("RHCPs").³ Because of the RHC program, world class health care services and technology can be made accessible to "remote," "unserved" and "underserved" populations in a practical and efficient manner.

The BVCOG is a consortium of local governments in the Brazos Valley Region of Texas. The Brazos Valley Region is a rural area surrounded by the Austin, Dallas/Fort Worth and Houston urban centers and includes seven counties: Brazos, Burleson, Grimes, Leon, Madison, Robertson and Washington. The Brazos Valley spans an area of 5,109 square miles and is home to approximately 315,000 citizens — a collective footprint roughly the size of Connecticut, but with a population only 1/10th as large.

Since 1966, the BVCOG and its predecessor organizations have sought to improve the quality of life in the Brazos Valley by promoting access to public health, jobs, and economic opportunity. To better meet current public health care demands and in light of the increasing, but unmet, connectivity needs of health care providers serving rural areas, the BVCOG is building a 320-mile, dual ring, 100 Gb backbone network ("Council of Governments Network" or "COGNet") that will support 1 Gb connections to 65 medical facilities spread across the seven counties comprising the Brazos Valley.²

² See Exhibit 1, COGNet – Brazos Valley Council of Governments Network technical description.

II. STATEMENT OF FACTS

This Request for Waiver pertains to one of two RHC funding requests that were submitted to USAC in 2016 by BVCOG, which was seeking financial support to construct the COGNet. The first of the two requests, FRN 16819841, identified \$2,969,067.73 of undiscounted non-recurring expenses for the one-time purchase of essential network equipment, for which USAC approved funding of \$1,929,894.02 (“Equipment FRN”).³ This equipment would be used and installed as the network was constructed to provide connectivity to the BVCOG’s consortium members and customers. The second request for funding, FRN 16819351, requested a three-year commitment by USAC to provide \$16,107,277.84 for the construction and management of COGNet (“Construction FRN”).⁴ The three-year commitment provided for the Construction FRN reflected the significant size and scope of the project, which could not reasonably be completed within a single funding cycle. USAC approved both FRNs for the full amounts requested by BVCOG.⁵

COGNet construction began while the Brazos Valley was recovering from two disaster-level periods of severe storms and flooding, designated by the Federal Emergency Management Agency (“FEMA”) as weather disasters DR-4272⁶ and DR-4269,⁷ which had caused substantial damage in the region. Nevertheless, BVCOG made substantial progress and began lighting sections of the first of the two planned fiber backbone rings within the first funding cycle.

Hurricane Harvey struck in August 2017, while construction of COGNet’s southern ring was well underway.⁸ The storm caused widespread damage, including damage to certain COGNet

³ See Exhibit 2, FRN 16819841 (filed by the BVCOG, Consortium Leader on behalf of COGNet) and Rural Health Care HCF Funding Commitment Letter (FCL): HCP 33548, FRN 16819841, November 11, 2016.

⁴ See Exhibit 3, FRN 16819351 and Rural Health Care HCF Funding Commitment Letter (FCL): HCP 33548, FRN 16819351, November 11, 2016.

⁵ See Exhibits 2 and 3 (FCLs for each respective FRN).

⁶ Texas Severe Storms and Flooding (DR-4272); Incident Period: May 22, 2016 - June 24, 2016; Major Disaster Declaration: June 11, 2016. See <https://www.fema.gov/disaster/4272>.

⁷ Texas Severe Storms and Flooding (DR-4269); Incident Period: April 17, 2016 - April 30, 2016; Major Disaster Declaration: April 25, 2016. See <https://www.fema.gov/disaster/4269>.

⁸ Texas Hurricane Harvey (DR-4332); Incident Period: August 23, 2017 - September 15, 2017; Major Disaster Declaration: August 25, 2017. See <https://www.fema.gov/disaster/4332>.

facilities. BVCOG's efforts to repair those facilities and continue network construction were stymied by significant and widespread material and labor shortages and the general need to prioritize repair efforts all along the Texas Gulf Coast.

In its *WCB Hurricane Relief Order*, the Commission recognized and responded to the severe and unusual damage caused by Hurricane Harvey and the other weather disasters that occurred in the fall of 2017. To reduce the hardship suffered by HCF and other Universal Service participants located in areas affected by those disasters, the Commission, *sua sponte*, waived certain E-rate, RHC, Lifeline and contribution rules and deadlines.⁹ In so doing, the Commission determined that the “widespread and catastrophic damage” caused by these disasters constituted “compelling and unique circumstances” and “good cause to waive certain rules and deadlines to assist schools and libraries, RHC and Lifeline Program participants, and contributors in the affected areas.”¹⁰

More recently, the Telecommunications Access Policy Division, Wireline Competition Bureau, acting on delegated authority, determined that it would serve the public interest to waive the funding year deadlines for several dozen HCP recipients that had been affected by administrative and workload related delays. In that decision, the Commission observed that the waiver was necessary to ensure that applicants, service providers and otherwise eligible health care providers would retain access to funding for the advanced telecommunications and information services, network equipment, and facilities essential to providing health care services to their constituents.¹¹

⁹ See *Schools and Libraries Universal Service Support Mechanism et al.*, CC Docket Nos. 02-6 et al., Order, DA 17-984 (WCB Oct. 6, 2017) (“*WCB Hurricane Relief Order*”).

¹⁰ *Id.* at Para. 1.

¹¹ See *Promoting Telehealth in Rural America*, Order, DA No. 18-267, Dkt No. 17-310, March 19, 2018 (“*HCF Invoice Filing Waiver Order*”) at Para. 4. https://apps.fcc.gov/edocs_public/attachmatch/DA-18-267A1.pdf. *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 32 FCC Rcd 5065 (WCB 2017) (waiving, *sua sponte*, the Healthcare Connect Fund 6-month invoicing deadline for affected applicants for funding year 2016).

On December 7, 2018, Mr. Michael Parks of BVCOG contacted USAC seeking to extend its invoicing deadlines focusing on the Construction FRN because of the persistent shortages and delays that were substantially hindering construction of COGNet and to enable the BVCOG to complete construction of the dual-ring network within a reasonable time.¹² Ms. Blythe Albert of USAC responded to Mr. Parks' inquiry on December 10 with instructions regarding a request for extension¹³ and on December 21, 2018 Mr. Parks submitted via electronic mail a request for a "one-year extension to light [Brazos Valley's] dark fiber network" and supporting information related to the Construction FRN.¹⁴

On January 22, 2019, Mr. Marcel Numa, USAC, informed Mr. Parks that his request for extension for the Construction FRN was granted and the "new funding end date for these expenses is 6/30/2020."¹⁵ Mr. Numa also explained that the decision was "based on the following language":

§ 54.634 Eligible services.

(b) *Eligibility of dark fiber.* A consortium of eligible health care providers may receive support for "dark" fiber where the customer, not the vendor, provides the modulating electronics, subject to the following limitations:

(1) Support for recurring charges associated with dark fiber is only available once the dark fiber is "lit" and actually being used by the health care provider. Support for non-recurring charges for dark fiber is only available for fiber lit within the same funding year, but applicants may receive up to a one-year extension to light fiber if they provide documentation to the Administrator that construction was unavoidably delayed due to weather or other reasons.

Meanwhile, as construction proceeded under the Construction FRN, BVCOG would draw

¹² See Exhibit 4, Email from Mr. Michael Parks, BVCOG, to RHC-Assist and Ms. Blythe Albert, USAC, Subject: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841, Friday, December 07, 2018 9:24 AM. BVCOG notes that the subject line referenced both FRNs (Construction and Equipment), but the body of the request focused on the three-year time frame related to the Construction FRN (FRN 16819351).

¹³ See Exhibit 5, Email from Ms. Blythe Albert, USAC to Mr. Michael Parks, BVCOG, Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841, December 10, 2018.

¹⁴ See Exhibit 6, Email from Mr. Michael Parks, BVCOG to Ms. Blythe Albert, USAC and RHC-Assist, Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841, December 21, 2018.

¹⁵ See Exhibit 7, Email from Mr. Marcel Numa, USAC to Mr. Michael Parks, BVCOG, Subject: Carry over of multi-year award - FRN: 16819351 / Extension Granted, January 22, 2019.

funds from the Equipment FRN as the need for the equipment arose. On September 17, 2019, Mr. Parks contacted Mr. Numa because the BVCOG was unable to obtain the Form 463 necessary to pay certain outstanding equipment invoices to its identified equipment vendor, CenturyLink, under the Equipment FRN.¹⁶ This situation had not happened before and caught the BVCOG unaware. In response, Mr. Numa informed Mr. Parks that USAC had extended only the invoice filing deadline for the Construction FRN.¹⁷ Mr. Numa explained that the Equipment FRN was issued as a single year commitment for which the invoicing deadline was December 20, 2017 and, in a follow-up Email the same day, Mr. Numa reported that USAC did not have authority to further extend that deadline. He also recommended that BVCOG seek a waiver from the Commission to allow the necessary extension,¹⁸ pursuant to which BVCOG submits this Request.

To date, BVCOG has drawn \$1,146,931.51 from the \$1,929,894.02 granted to it under the Equipment FRN. BVCOG drew down on the Equipment FRN only when the need arose of the equipment. BVCOG did not draw down and/or purchase all the equipment at once or within the first year of the Equipment FRN because such a decision would have been unsound business judgment. If BVCOG had purchased all of the equipment in the first year while planned construction would have taken up to three years, and with the extension four years, it would not have been prudent to purchase the equipment and store it in a warehouse for future availability. The warranties on the equipment would run while sitting in storage and if there were problems with any of the equipment once installed, BVCOG would have no recourse against the manufacturer.¹⁹ In addition, since equipment technology evolves in the industry, the ability of

¹⁶ See Exhibit 8, Email from Mr. Michael Parks, BVCOG to Mr. Marcel Numa, USAC, Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted, September 17, 2019.

¹⁷ See Exhibit 9, Emails between Mr. Marcel Numa, USAC and Mr. Michael Parks, BVCOG and Ms. Jasmine Schoellman, BVCOG, Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted, September 18, 2019.

¹⁸ *Id.*

¹⁹ In fact, the BVCOG has experienced at least one instance where newly purchased equipment was faulty and had to be replaced. Fortunately, because of BVCOG's business practice, the warranty was in place and replaced by the manufacturer at no cost to the BVCOG.

BVCOG to purchase up-to-date equipment, rather than potentially outdated equipment, enables BVCOG to install equipment that meets industry standards as construction continues. Therefore, BVCOG submits that its rationale for drawing down to purchase equipment only as needed reflects sound network and construction management.

Accordingly, in light of the facts described above, BVCOG respectfully requests that the Commission waive Section 54.634(b)(1) of its rules as necessary and appropriate to permit USAC to extend FRN 16819841 through June 30, 2020, which corresponds with the USAC extension of the Construction FRN and by which date, BVCOG anticipates it will be complete with the construction of COGNet. This extension will enable the BVCOG to have access to and be able to draw down remaining funds totaling \$782,962.46, which are funds previously designated for equipment to be used on the constructed network.

III. BVCOG REQUESTS THAT THE COMMISSION WAIVE THE INVOICE DEADLINE DATE FOR FRN 16819841 FOR GOOD CAUSE

BVCOG seeks waiver of Section 54.634(b)(1)²⁰ of the Commission's rules, pursuant to Sections 54.719(a) and 54.720(c) of the rules.²¹ Such waiver is necessary and justified in this case to ensure timely and economical completion of the Brazos Valley COGNet, which is being built to serve the unmet, critical needs of rural health care providers in rural central Texas. BVCOG is a "party aggrieved by an action taken by the Administrator [USAC]" and as such has a right to seek review of that action.²²

Generally, the Commission may waive a rule if it has good cause to do so. 47 C.F.R. § 1.3. The Commission may use its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*"). The Commission may also consider,

²⁰ 47 CFR § 54.634(b)(1).

²¹ 47 CFR § 54.719(a) and 47 CFR § 54.720(b).

²² See 47 C.F.R. § 54.719.

on an individual basis, hardship, equity, or more effective implementation of its overall policy. *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission’s rules is appropriate under *Northeast Cellular* if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166. A similar waiver standard in Section 1.925 (b)(3)(ii) of the Commission’s rules allows for grant of waiver requests when “in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.” The Waiver sought herein meets both the *Northeast Cellular* and the Section 1.925 (b)(3)(ii) requirements.

A. A Waiver Extending the Invoice Deadline for FRN 16819841 is Warranted Due to Special and Unique Circumstances.

The Commission has repeatedly recognized that uncontrollable and external factors, including extreme weather, can materially impact the installation of services, especially in very remote areas of the country, and has granted waiver requests on that basis.²³ Even in response to administrative and workload-related delays, the Commission has recognized that “considerations of hardship, equity, or more effective implementation of overall policy on an individual basis” can justify waiver of administrative deadlines for HCP funding recipients.²⁴

The *WCB Hurricane Relief Order* responded to the weather disasters that occurred in late 2017, including Hurricane Harvey, that “caused widespread and catastrophic damage, destroyed and damaged countless homes, schools, libraries, and health care facilities, displaced residents, and disrupted communications.”²⁵ BVCOG undertook COGNet construction in the immediate

²³ See *WCB Hurricane Relief Order*; AWN Order, supra note 8; see also, e.g., *Request for Waiver by the Utah Education and Telehealth Network*, CC Docket No. 02-6, Order, 33 FCC Rcd 4607, 4611-12, ¶ 12 (Wireline Comp. Bur. 2018) (extension of one-year deadline for fiber installation granted due in part to “very short annual construction season due to weather”).

²⁴ *HCF Invoice Filing Waiver Order* at Para. 3.

²⁵ *WCB Hurricane Relief Order* at Para. 1.

aftermath of Hurricane Harvey in an area that had been hard hit and was endeavoring to recover from that and other recent storms. Although BVCOG made admirable progress, its effort was slowed and made more difficult by practical and logistical problems, specifically shortages limiting its access to adequate materials and labor. Once it became clear that these circumstances would make it practically impossible to complete the COGNet within the planned three-year timeline, BVCOG requested that USAC extend its funding under the Construction FRN because the construction of the project was not complete, but BVCOG believes that the construction could be completed within one additional year.²⁶

In January of this year, USAC extended the Construction FRN's funding date to June 30, 2020.²⁷ The funds remained available under the Equipment FRN even past the one-year commitment date and the BVCOG has drawn down on the Equipment FRN up to and until September 2019 that USAC denied the BVCOG access to the remaining balance of the approved funds for purchase of essential equipment needed for the fiber network.²⁸

While constructing COGNet, BVCOG has relied on an equipment procurement strategy designed to maximize value and minimize costs. Specifically, BVCOG schedules its equipment purchases, made through its vendor CenturyLink, so that the equipment arrives at service locations when the dark fiber network facilities connecting those locations are being completed. This strategy minimizes the risk of damage and loss that would arise if the equipment were purchased prematurely and had to be stored for an extended period before use. It also ensures that the equipment is up to date when installed and that manufacturer's warranty periods will not expire before the equipment has been put into use. BVCOG's foresight in managing its equipment

²⁶ See Exhibit 6, Email from Mr. Michael Parks, BVCOG to Ms. Blythe Albert, USAC and RHC-Assist, Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841, December 21, 2018.

²⁷ See Exhibit 7, Email from Mr. Marcel Numa, USAC to Mr. Michael Parks, BVCOG, Subject: Carry over of Multi-year award – FRN: 16819351, January 22, 2019.

²⁸ The BVCOG withdrew funds from the Equipment FRN as late as July 25, 2018 without issue or denial by USAC,

purchases and timing maximizes the value of every dollar, which undoubtably agrees with the public interest served by the RHC program.

But for the construction delays resulting from Hurricane Harvey and its contemporaneous weather events and recovery efforts, BVCOG's equipment procurement process could have been completed before the original funding end date for the Equipment FRN. USAC's extension of the funding end date limitation for the Construction FRN was critical, in that it ensured that necessary funding would remain available while COGNet is completed. However, USAC's lack of authority to similarly extend the funding end date for the Equipment FRN creates a discrepancy, wherein BVCOG's access to the funds necessary to purchase the equipment necessary to operate COGNet has been curtailed while the project remains underway. Granting a Waiver to allow USAC to extend the funding end date for the Equipment FRN (FRN 16819841) to June 30, 2020, matching the end date of its counterpart FRN 16819841 (Construction FRN), would ensure that the funds to purchase equipment for COGNet will remain available until the project is completed, and that equipment expenditures can be made in a way that maximizes value and minimizes financial risks.

B. Without a Waiver of the Invoice Deadline for FRN 16819841, Health Care Providers in Brazos Valley Would be Unduly Disadvantaged, Contrary to the Public Interest.

It would be averse to the public interest for the Commission to decline to grant the requested Waiver. The COGNet is designed to serve the entire rural community in the Brazos Valley in a holistic, sustainable manner. The network architecture is divided into two rings, a "Northern Ring" and a "Southern Ring." The South Ring is almost finished, and the Northern Ring is well underway. When complete, COGNet is expected to support over 400 connections that will be used by dozens of HCPs serving over 315,000 area residents as well as thousands of non-residents who traverse Brazos Valley roads and highways and could at any time be involved in an accident or emergency requiring medical care.

This project is finally nearing completion, and most of the expenditures have already been made. Funding for the dark fiber portions of the network is in place and available. But without the requested waiver, BVCOG's ability to purchase the remaining equipment necessary to access and use that dark fiber would be severely restricted and the HCPs that are yet unconnected would be left stranded with their ability to provide crucial health care services lessened. The public interest would be diminished if completion of the COGNet were curtailed and presently unserved Brazos Valley HCPs were deprived of the broadband and communications facilities and services that they desperately need.

III. CONCLUSION AND REQUEST FOR RELIEF

BVCOG respectfully requests that the Commission grant a waiver of Section 54.634(b)(1) of its rules as necessary and appropriate to allow USAC to extend the funding end date for FRN 16819841 (Equipment FRN) to June 30, 2020, the same funding end date that now applies to its counterpart, FRN 16819351 (Construction FRN). Unique and special circumstances and the public interest warrant such action by the Commission, which is necessary and justified to ensure that the COGNet can be completed as planned and that all Brazos Valley HCPs can gain access to the vital communications services that they need in order to provide and promote health care services in the rural Brazos Valley Region in central Texas.

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Respectfully submitted,



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**COUNSEL FOR BRAZOS VALLEY
COUNCIL OF GOVERNMENTS**

November 18, 2019

CERTIFICATE OF SERVICE

I certify that in accordance with 47 C.F.R. Section 54.721(c) I served a copy of this Request for Review on the USAC Administrator consistent with the requirement for service of documents set forth in Section 1.47 on November 18, 2019.



Katherine K. Mudge

EXHIBIT 1

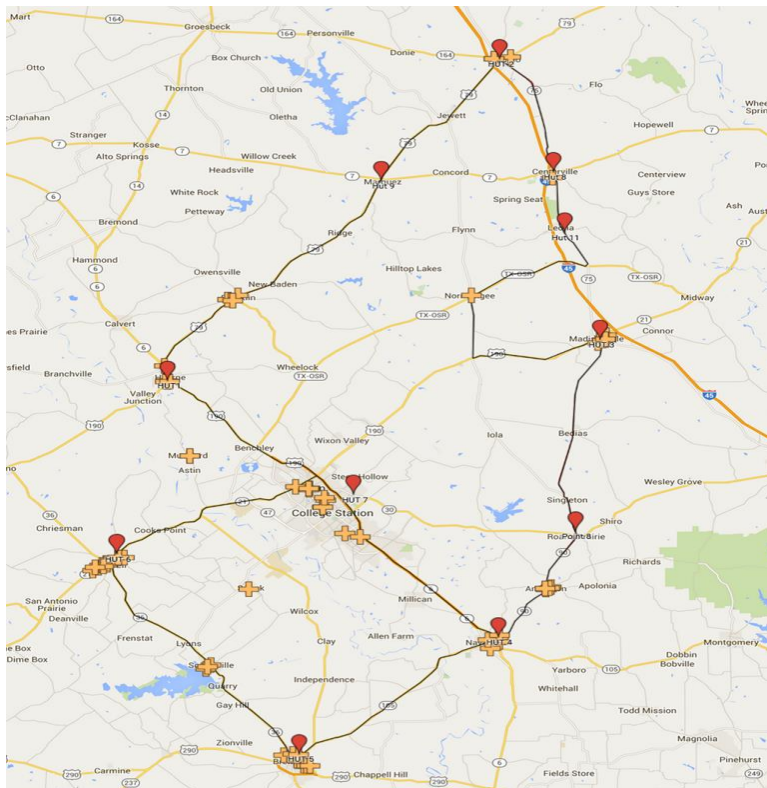
COGNet – Brazos Valley Council of Governments Network Network Technical Description

COGNet – Brazos Valley Council of Governments Network

Network technical description

The proposed Brazos Valley Council of Governments network (COGNet) has been designed to support the needs of the health care community that it serves, and to do so long into the future. Built on single-mode fiber optic cables, it will consist of an initial 100 billion bits per second (100 gigabit) backbone with 1 gigabit links to all of the members. The fiber type and regeneration site spacing is, however, designed to allow future growth to multiple parallel 100 gigabit links, either by lighting multiple fibers within its conduits or by lighting multiple lambdas within a given single-mode fiber. Further, we expect the fiber we are deploying to be capable of data rates above 100 gigabits as such data rates become possible. Future interconnection points have been planned to allow cost-effective expansion for other network customers. These could include K-12, city, county, and state governments, and even commercial carriers and Internet Service Providers (ISPs).

Physically, the core network will include two rings that span the seven counties served by the Brazos Valley Council of Governments. These rings, in total, reach approximately 320 miles and include two 1.25-inch diameter subducts. One of these subducts will carry 48 strands of fiber optic cable; the other (spare) subduct is included for future expansion. We will use 5,000-foot reels of fiber for this construction, resulting in approximately 350 3'-by-5' concrete buried hand holes being installed for splice points. These hand holes will be strategically located to allow future connections. All buried fiber would be identified with appropriate fiber markers and the routes identified with the 800 Dig Test organization to reduce the chance of damage.



The fiber optic plant will be constructed by Housley Communications, one of the largest outside plant fiber construction contractors in our region. Pending approval from the FCC, the contract will be awarded under a pre-bid service contract through MICTA, an approved FCC E-Rate procurement vehicle. Housley does the majority of the outside plant construction in the region for AT&T, Verizon, Century Link, Time Warner Cable and Cox Cable. Upon approval of this application, Housley is poised to bring in between 5 to 10 construction crews in order to complete the fiber plant within a 18-month period.

The network would incorporate eleven communications huts along the two-ring topology; these huts would house the electronics required to drive the network. Each of these huts is an 8'-by-20' pre-constructed, concrete shelter, able to withstand a Category III hurricane. Each will have self-contained air conditioning/heater units, 19" racks, and 100 amps service panels. We will install rectifiers and batteries sufficient to support a 20-hour run time, a generator and complete environment and security monitoring.



Typical Shelter Interior

The electronics/optics hardware will consist of:

- one core Cisco Catalyst 6880 router,
- eleven Ciena 8700 metro Ethernet aggregation switches, and
- the appropriate number (initially about 70) Ciena 3930 metro ethernet access switches.

Each access switch will have 1-gigabit fiber connections to 8700 aggregation switches in two separate huts (one north and one south). The aggregation switches will each have two 100-gigabit connections, connecting to the aggregation switches in topologically adjacent huts (one east and one west). In addition, the core router at the central hut in Bryan, Texas, will have 100-gigabit connections to the aggregation switch in Bryan and also to the aggregation switches at the (total of five) huts topologically adjacent to it in each of the two rings. The installation and configuration of the switches will be performed by the electronics/optics hardware vendor.

The Texas A&M University Academy for Advanced Telecommunications and Learning Technologies is assisting with the design and oversight of the network construction. Academy personnel have over 25 years of experience with fiber optic construction. In 2010 Academy personnel managed the installation of over 140 miles of fiber to Texas A&M University System campuses across the State of Texas under a \$9.6 million BTOP grant. This project was completed on time and under budget.

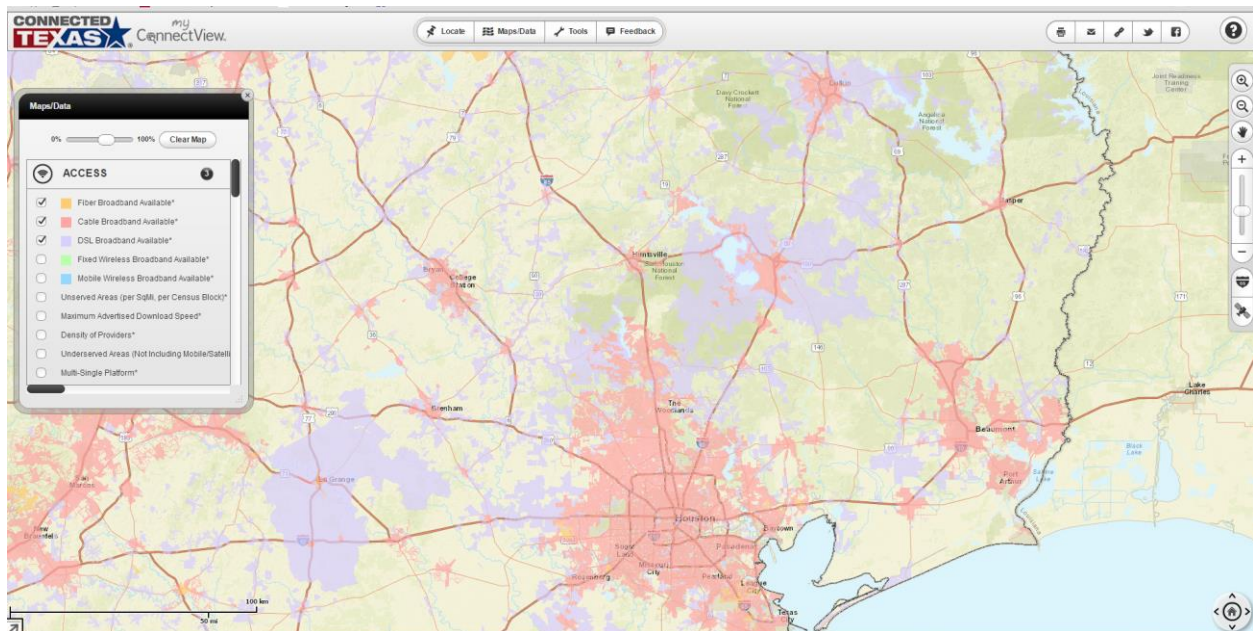
Once installed, the equipment will be monitored and maintained by a local communications firm. This firm will provide 24x7 Network Operation support and monitor the entire network. Housley Communications will provide any needed fiber optic repairs. Funding for operations will be under a separate operations budget, not funded under the current application.

This network would be the first large network of its kind under the newly established FCC guidelines for rural broadband access. All seventy eligible HCF-funded sites will be installed within two years. Once the network is accepted, however, we plan to dramatically increase the number of network connections serving the rural, underserved communities within the seven-county region covered by this application. Future connections will include local government, schools, utilities, and public safety. We plan to also work with Internet Service Providers (ISPs) that would then provide broadband services to these rural communities. These ISPs could use last mile technologies for connecting customers in this rural area; such as Gigabit Passive Optical Networks (GPON) and the LTE (using existing EBS spectrum licensed by educational entities within the same area). This network would truly be a showcase for the FCC and a model for the rest of the country. It is designed following Chairman Wheeler's vision of rural broadband in the future.

Sustainability

In keeping with Chairman Wheeler's vision of rural broadband, this project takes a holistic approach. Too many past projects have taken a silo approach to rural broadband, focusing solely on public safety or healthcare or K12 or commercial services. While this application focuses on the 70 plus healthcare providers (tier one), two additional tiers will follow immediately after acceptance of the network. Their constituents will make up the tier two and tier three connections needed to assure sustainability. These constituents will be made up of non-eligible and in-eligible connections as redefined by the FCC.

The services provided will include both transport and IP services (which includes the transport). The initial connections will begin at both 1 gigabit and 10 gigabits, both protected and non-protected. These services will cost between \$800 and \$1,500 per month, depending upon the service requested. A validation of current services shows that a 10 megabit to 100 megabit connection is currently costing two to five thousand dollars per month in our area. The Connected Texas interactive broadband map shows that almost none of our seven-county area has any terrestrial broadband capabilities (fiber, cable TV or DSL). We did not include fixed wireless in this coverage map as it include satellite based services which we do not consider to be either cost effective nor do they provide adequate bandwidth.



[http://map.connectedtx.org/?center=-10727854.585203473,3590530.3879320472&scale=1155581.108577&layers={"layers":{"name":"Layers","show":\[12,18,19,20\]},"alpha":0.69921875}}](http://map.connectedtx.org/?center=-10727854.585203473,3590530.3879320472&scale=1155581.108577&layers={)

Once the initial 70 plus connectors are served, the second tier will be the connection of the public and not-for-profit entities in our area. The BVCoG is already a service provider for many non-network services at this time making this a natural progression. In addition, almost all the K-12 entities in our area receive their Internet services over transport provided through the State of Texas' Region 6 Educational Service Center (ESC6) over the proposed network. ESC6 is a strong supporter of this proposal.

A third tier consists of the local Internet Service Providers that serve the residential and commercial end users. Several of the educational entities in the footprint of this network also own Educational Broadband Spectrum (EBS) that is generally underutilized. By arrangement between potential ISPs and owners of these frequencies, commercial services would be provided with very low last mile costs to communities near the fiber buildouts.

The proposed network will leverage the abundant, competitively priced Internet service available in the Bryan/College Station area. As noted in the above map, within the cities of Bryan and College Station, there are multiple service providers. Once you get even three or four miles out of Bryan and College Station, there are often none. Bryan/College Station also benefits from sitting directly on the fiber optic cables that connect Dallas to Houston on the Southern Pacific Railroad rights-of-way. This project will extend these advantages to the surrounding communities.

This project serves the entire rural community in a holistic manner that ensures sustainability. We anticipate over 400 connections once the network is fully built out. We believe that this proposal realizes Chairman Wheeler's vision and, as such, it will provide an excellent showcase for the FCC and future networks.

Exhibit 2

**FRN 16819841 (Filed by COGNet)
Rural Health Care HCF Funding Commitment Letter
(FCL): HCP 33548, FRN 16819841 "Equipment FRN"),
November 11, 2016**

**Rural Health Care (RHC) Universal Service
Healthcare Connect Fund
Funding Request Form**

Read instructions thoroughly before completing this form. Failure to comply may cause delayed or denied funding.

Block 1: General Information	
1 Funding Year <u>2016</u>	2 Funding Request Number (FRN): <u>16819841</u>
3 HCP Number: <u>33548</u>	4 Site Name/Consortium Name: <u>COGNet</u>
Block 2: Competitive Bidding Information	
5 FCC Form 461 Application Number: <u>100009019</u>	
6 Allowable Contract Selection Date (ACSD): <u>07/31/2015</u>	
7 Number of vendors who bid: <u>0</u>	
8 Request for competitive bidding exemption (Only complete if claiming a competitive bidding exemption).	
<input type="checkbox"/> Annual Undiscounted Cost of \$10,000 or less	
<input type="checkbox"/> Government Master Services Agreement	Contract ID: Friendly Name:
<input type="checkbox"/> Pre-Approved Master Services Agreement	Contract ID: Friendly Name:
<input type="checkbox"/> Evergreen Contract	Contract ID: Friendly Name:
<input type="checkbox"/> E-Rate Approved Contract	Contract ID: Friendly Name:
Block 3: Vendor Information	
9 Service provider identification number (SPIN): <u>143002438</u>	
10 Vendor name: <u>Century Link CenturyTel of Lake Dallas, Inc.</u>	
Block 4: Type of Funding Request	
11 <input type="checkbox"/> Individual HCP, single eligible expense	
<input type="checkbox"/> Individual HCP, multiple eligible expenses	
<input checked="" type="checkbox"/> Consortium Application	
Block 5: Single Eligible Expense Request for Funding	
12 Category of Expense	13 Expense Type
14 Bandwidth	14a Is this service symmetrical? <input type="radio"/> Yes <input type="radio"/> No
15 Circuit ID (optional)	If no, what is the upload bandwidth _____.
	What is the download bandwidth _____.
16 Percentage of expense eligible	
17 Does the Service Type include both eligible and ineligible components? <input type="radio"/> Yes <input type="radio"/> No	
If yes, percentage of usage eligible _____	
18 Billing Account Number (BAN)	
19 Contract ID	19a Date contract signed
19b Expected service start date	19c Length of initial contract term
19d Number of contract extensions	19e Length of optional extension(s) combined
20 Circuit start location	21 Circuit end location
22 Is this a multi-year funding request? <input type="radio"/> Yes <input checked="" type="radio"/> No	Multi-year commitments cannot exceed 3 funding years and may not extend beyond the expiration date of an Evergreen Contract.
23 Expense frequency	24 Quantity of expense periods
25 Undiscounted cost per expense period	26 Source of HCP contribution
27 One-time installation charges	

28 This contract contains a Service Level Agreement. <input type="radio"/> Yes <input type="radio"/> No	
If yes, provide the following information concerning the SLA in the contract:	a. Latency: b. Jitter: c. Packet Loss: d. Reliability:
Block 6: Multiple Eligible Expenses and Consortium Requests for Funding (attach Network Cost Worksheet)	
29 Total undiscounted cost for eligible recurring expenses	\$0.00
30 Total undiscounted cost for eligible non-recurring expenses	\$2,969,067.73
Block 7: Additional Documentation	
31 List all supporting documentation (Competitive bids, Contract, etc.) that is required to be submitted with this form.	
Type of Documentation	
a. See attached	
b.	
c.	
Block 8: Request for Confidentiality	
32 Is applicant requesting confidential treatment and non-disclosure of commercial and financial information? (See instructions for specific information covered by this request.) <input type="radio"/> Yes <input checked="" type="radio"/> No	
Block 9: Certifications	
33 <input checked="" type="checkbox"/> I certify that I am authorized to submit this request on behalf of the health care provider or consortium.	
34 <input checked="" type="checkbox"/> I declare under penalty of perjury that I have examined this form and attachments and to the best of my knowledge, information, and belief, all information contained in this form and in any attachments is true and correct.	
35 <input checked="" type="checkbox"/> I certify under penalty of perjury that the health care provider or consortium has considered all bids received and selected the most cost-effective method of providing the requested services. The "most cost-effective service" is defined as the "method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services." 47 C.F.R. Sec. 54.642(c).	
36 <input checked="" type="checkbox"/> I certify under penalty of perjury that all Healthcare Connect Fund support will be used only for the eligible program purposes for which support is intended.	
37 <input checked="" type="checkbox"/> I certify that the health care provider or consortium is not requesting support for the same service from both the Telecommunications Program and the Healthcare Connect Fund.	
38 <input checked="" type="checkbox"/> I certify that the health care provider or consortium satisfies all of the requirements under Section 254 of the Telecommunications Act of 1996, as amended, and applicable Commission rules, and understand that any letter from the Administrator that erroneously commits funds for the benefit of the applicant may be subject to rescission.	
39 <input checked="" type="checkbox"/> I certify that I have reviewed all applicable requirements for the program and will comply with those requirements.	
40 <input checked="" type="checkbox"/> I understand that all documentation associated with this application, including all bids, contracts, scoring matrices, and other information associated with the competitive bidding process, and all billing records for services received, must be retained for a period of at least five years pursuant to 47 C.F.R. § 54.648, or as otherwise prescribed by the Commission's rules.	
41 Signature	42 Date 06/02/2016
43 Printed Name of Authorized Person Tom Wilkinson	
44 Title/Position of Authorized Person Executive Director	
45 Phone (979) 595-2800 Ext.	46 Email twilkinson@bvcog.org
47 Employer Brazos Valley Council of Governments	48 Employer's FCC RN 0018847830

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

FCC NOTICE FOR INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

Part 3 of the Commission's Rules authorize the FCC to request the information on this form. The purpose of the information

is to determine your eligibility for certification as a health care provider. The information will be used by the Universal Service Administrative Company and/or the staff of the Federal Communications Commission, to evaluate this form, to provide information for enforcement and rulemaking proceedings and to maintain a current inventory of applicants, health care providers, billed entities, and service providers. No authorization can be granted unless all information requested is provided. Failure to provide all requested information will delay the processing of the application or result in the application being returned without action. Information requested by this form will be available for public inspection. Your response is required to obtain the requested authorization.

The public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, AMD-PER, Paperwork Reduction Act Project (3060-0804), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to pra@fcc.gov. PLEASE DO NOT SEND YOUR RESPONSE TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0804.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Block 7: Additional Documentation

31 List all supporting documentation (Competitive bids, Contract, etc.) that is required to be submitted with this form.

[illegible]

From: [RHC-HCP](#)
To: [Tom Wilkinson](#); [Michael Parks](#); [lditto@tamu.edu](#); [rgarnold@tamu.edu](#); [e-rate@centurylink.com](#)
Cc: [RHC-HCP](#)
Subject: Rural Health Care HCF Funding Commitment Letter (FCL): HCP 33548, FRN 16819841
Date: Friday, November 11, 2016 11:04:42 AM
Attachments: [FINAL NCW.xls](#)

Funding Commitment Letter Date: 11/10/2016

Invoicing Deadline: 12/30/2019

Funding Year: 2016

Health Care Provider (HCP) Name: COGNet

HCP Number: 33548

HCP Contact Name: Tom Wilkinson

HCP Contact Email: twilkinson@bvcog.org

HCP Contact Phone: (979) 595-2800

FCC Form 461 Application Number: 100009019

Funding Request Number: 16819841

Re: FCC Form 462 Funding Request Decision

The Rural Health Care (RHC) division of the Universal Service Administrative Company (USAC) has completed its review of the FCC Form 462 *Healthcare Connect Fund Funding Request Form* (Form 462) and the supporting information submitted by the HCP named above. Based on the information provided, RHC has determined that the HCP is eligible for the funding estimated below. It is the HCP's responsibility to review this FCL and verify that all information is accurate.

If a multi-year commitment was approved, funding is shown by funding year.

Funding Start Date	Funding End Date	Undiscounted Recurring Expense	Undiscounted Non-Recurring Expense	Recurring Funding Amount	Non-Recurring Funding Amount	Total Approved Funding
11/1/2016	6/30/2017	\$00.00	\$2,969,067.73	\$00.00	\$1,929,894.02	\$1,929,894.02

Year One:

Funding End Date	Undiscounted Recurring Expense	Recurring Funding Amount	Total Approved Funding
6/30/2018	\$00.00	\$00.00	\$00.00

Year Two:

Funding End Date	Undiscounted Recurring Expense	Recurring Funding Amount	Total Approved Funding
6/30/2019	\$00.00	\$00.00	\$00.00

Year Three:

Total Approved Funding: \$1,929,894.02

HCP Physical Location: P.O. Drawer 4128, Bryan, TX, 77805-4128

Service Type: Construction - Management Services

Bandwidth: NA/NA

Service Provider Name: Century Link CenturyTel of Lake Dallas, Inc.

Service Provider Identification Number (SPIN): 143002438

Billing Account Number (BAN): [Billing Account Number]

Contract ID: 882571

Evergreen Determination: Evergreen

Contract Start Date: 5/11/2016

Evergreen Contract End Date: 5/10/2018

Evergreen: For the life of the original term of the contract, the HCP is not required to re-compete the service(s) identified above, nor post an FCC Form 461 *Healthcare Connect Fund Request for Services Form* (Form 461). An HCP that exercises an option to extend the duration of an Evergreen contract may do so without the competitive bidding process for that funding year; however, the option to extend the duration of an Evergreen contract must be memorialized in the terms of the original contract, and the HCP's decision to extend the duration of an Evergreen contract must occur before the HCP submits the Form 462 for the funding year in which the Evergreen contract expires.

Approved multi-year funding requests must have an Evergreen-endorsed contract. Once funding is approved for multi-year funding, the HCP does not have to submit a Form 462 for the service(s) identified above, through the funding end date shown above. An HCP with new services (or upgrades not requested in the original Form 461) must submit a Form 461, and participate in the competitive bidding process, before submitting a Form 462.

Your responsibility: It is the HCP's responsibility to review the information in this FCL. Contact RHC at rhc-hcp@usac.org if there is an error with the amount of funding or other information in this FCL.

If, at any time, the funded services are no longer provided to the HCP or the HCP is not otherwise receiving the approved funding, it is the HCP's responsibility to notify RHC immediately.

Information provided on Forms 461, 462, and the FCC Form 463 *Healthcare Connect Fund Invoice and Request for Disbursement Form* (Form 463) are subject to audit by RHC and the FCC. HCPs are subject to audits and other reviews by USAC and/or the FCC to ensure that the universal service funding is used in compliance with FCC program rules. If USAC discovers that funds are not used in compliance with program rules, an HCP may be subject to enforcement activities and other means of recourse by USAC and other appropriate federal, state, and local authorities.

Next Steps: The HCP must complete and submit the Form 463 through the "My Portal" website. The Form 463 will confirm receipt of the services and equipment for which funding has been approved and the date on which the service provider began providing those services. The service provider will 1) confirm the accuracy of the Form 463; 2) confirm that the HCP has paid its 35% contribution; and 3) submit the Form 463 to RHC for payment.

The Form 463 must be submitted by the date listed at the top of this letter (Invoicing Deadline) which is six months after the end date of the funding commitment. However, HCPs are encouraged to start the invoicing process as soon as services have started and a bill has been received from the service provider.

Receipt of funding commitments is contingent on compliance with all statutory, regulatory, and procedural requirements of the Rural Health Care HCF Program. HCPs that receive funding commitments may be subject to random audits, site visits, and other reviews by USAC to assure that funds have been committed and are used in accordance with all such requirements. USAC may be required to reduce or rescind funding commitments that were not issued in accordance with such requirements, whether due to action, or inaction, including but not limited to that by USAC, the HCP or the service provider. USAC, and other appropriate authorities (including but not limited to the Federal Communications Commission), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

If you wish to appeal this decision, you may file an appeal with USAC or the FCC. The appeal must be delivered within 60 days of the date of this letter. Detailed instructions for filing appeals are available on the RHC website at www.usac.org/rhc/about/program-integrity/appeals.aspx

For questions or assistance, or if this email has been received in error, contact Rural Health Care at 1-800-453-1546, between 9:00 a.m. and 4:30 p.m. Eastern Time Monday through Friday or by email at rhc-hcp@usac.org.

All account holders and the service provider contact listed on the Form 498 will receive a copy of this FCL.

The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended recipient, be advised you have received this communication in error and that any use, dissemination, forwarding, printing or copying is strictly

d. Please notify the sender immediately and destroy all copies of this communication and any attachments.

EXHIBIT 3

**FRN 16819351 (Filed for COGNet)
Rural Health Care HCF Funding Commitment Letter (FCL):
HCP 33548, FRN 16819351 (“Construction FRN”),
November 11, 2016**

**Rural Health Care (RHC) Universal Service
Healthcare Connect Fund
Funding Request Form**

Read instructions thoroughly before completing this form. Failure to comply may cause delayed or denied funding.

Block 1: General Information	
1 Funding Year <u>2016</u>	2 Funding Request Number (FRN): <u>16819351</u>
3 HCP Number: <u>33548</u>	4 Site Name/Consortium Name: <u>COGNet</u>
Block 2: Competitive Bidding Information	
5 FCC Form 461 Application Number: <u>100009019</u>	
6 Allowable Contract Selection Date (ACSD): <u>07/31/2015</u>	
7 Number of vendors who bid: <u>0</u>	
8 Request for competitive bidding exemption (Only complete if claiming a competitive bidding exemption).	
<input type="checkbox"/> Annual Undiscounted Cost of \$10,000 or less	
<input type="checkbox"/> Government Master Services Agreement	Contract ID: Friendly Name:
<input type="checkbox"/> Pre-Approved Master Services Agreement	Contract ID: Friendly Name:
<input type="checkbox"/> Evergreen Contract	Contract ID: Friendly Name:
<input type="checkbox"/> E-Rate Approved Contract	Contract ID: Friendly Name:
Block 3: Vendor Information	
9 Service provider identification number (SPIN): <u>143048203</u>	
10 Vendor name: <u>Housley Communications, Inc.</u>	
Block 4: Type of Funding Request	
11 <input type="checkbox"/> Individual HCP, single eligible expense	
<input type="checkbox"/> Individual HCP, multiple eligible expenses	
<input checked="" type="checkbox"/> Consortium Application	
Block 5: Single Eligible Expense Request for Funding	
12 Category of Expense	13 Expense Type
14 Bandwidth	14a Is this service symmetrical? <input type="radio"/> Yes <input type="radio"/> No
15 Circuit ID (optional)	If no, what is the upload bandwidth _____.
	What is the download bandwidth _____.
16 Percentage of expense eligible	
17 Does the Service Type include both eligible and ineligible components? <input type="radio"/> Yes <input type="radio"/> No	
If yes, percentage of usage eligible _____	
18 Billing Account Number (BAN)	
19 Contract ID	19a Date contract signed
19b Expected service start date	19c Length of initial contract term
19d Number of contract extensions	19e Length of optional extension(s) combined
20 Circuit start location	21 Circuit end location
22 Is this a multi-year funding request? <input type="radio"/> Yes <input checked="" type="radio"/> No	Multi-year commitments cannot exceed 3 funding years and may not extend beyond the expiration date of an Evergreen Contract.
23 Expense frequency	24 Quantity of expense periods
25 Undiscounted cost per expense period	26 Source of HCP contribution
27 One-time installation charges	

28 This contract contains a Service Level Agreement. <input type="radio"/> Yes <input type="radio"/> No	
If yes, provide the following information concerning the SLA in the contract:	a. Latency: b. Jitter: c. Packet Loss: d. Reliability:
Block 6: Multiple Eligible Expenses and Consortium Requests for Funding (attach Network Cost Worksheet)	
29 Total undiscounted cost for eligible recurring expenses	\$0.00
30 Total undiscounted cost for eligible non-recurring expenses	\$24,780,427.44
Block 7: Additional Documentation	
31 List all supporting documentation (Competitive bids, Contract, etc.) that is required to be submitted with this form.	
Type of Documentation	
a. See attached	
b.	
c.	
Block 8: Request for Confidentiality	
32 Is applicant requesting confidential treatment and non-disclosure of commercial and financial information? (See instructions for specific information covered by this request.) <input type="radio"/> Yes <input checked="" type="radio"/> No	
Block 9: Certifications	
33 <input checked="" type="checkbox"/> I certify that I am authorized to submit this request on behalf of the health care provider or consortium.	
34 <input checked="" type="checkbox"/> I declare under penalty of perjury that I have examined this form and attachments and to the best of my knowledge, information, and belief, all information contained in this form and in any attachments is true and correct.	
35 <input checked="" type="checkbox"/> I certify under penalty of perjury that the health care provider or consortium has considered all bids received and selected the most cost-effective method of providing the requested services. The "most cost-effective service" is defined as the "method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services." 47 C.F.R. Sec. 54.642(c).	
36 <input checked="" type="checkbox"/> I certify under penalty of perjury that all Healthcare Connect Fund support will be used only for the eligible program purposes for which support is intended.	
37 <input checked="" type="checkbox"/> I certify that the health care provider or consortium is not requesting support for the same service from both the Telecommunications Program and the Healthcare Connect Fund.	
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39 <input checked="" type="checkbox"/> I certify that I have reviewed all applicable requirements for the program and will comply with those requirements.	
40 <input checked="" type="checkbox"/> I understand that all documentation associated with this application, including all bids, contracts, scoring matrices, and other information associated with the competitive bidding process, and all billing records for services received, must be retained for a period of at least five years pursuant to 47 C.F.R. § 54.648, or as otherwise prescribed by the Commission's rules.	
41 Signature	42 Date 06/02/2016
43 Printed Name of Authorized Person Tom Wilkinson	
44 Title/Position of Authorized Person Executive Director	
45 Phone (979) 595-2800 Ext.	46 Email twilkinson@bvcog.org
47 Employer Brazos Valley Council of Governments	48 Employer's FCC RN 0018847830

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THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3) AND THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.

Block 7: Additional Documentation

31 List all supporting documentation (Competitive bids, Contract, etc.) that is required to be submitted with this form.

[illegible]

From: [RHC-HCP](#)
To: [Tom Wilkinson](#); [Michael Parks](#); [lditto@tamu.edu](#); [rgarnold@tamu.edu](#); [mhousley@hc-inc.com](#)
Cc: [RHC-HCP](#)
Subject: Rural Health Care HCF Funding Commitment Letter (FCL): HCP 33548, FRN 16819351
Date: Friday, November 11, 2016 11:01:01 AM

Funding Commitment Letter Date: 11/10/2016

Invoicing Deadline: 12/30/2019

Funding Year: 2016

Health Care Provider (HCP) Name: COGNet

HCP Number: 33548

HCP Contact Name: Tom Wilkinson

HCP Contact Email: twilkinson@bvcog.org

HCP Contact Phone: (979) 595-2800

FCC Form 461 Application Number: 100009019

Funding Request Number: 16819351

Re: FCC Form 462 Funding Request Decision

The Rural Health Care (RHC) division of the Universal Service Administrative Company (USAC) has completed its review of the FCC Form 462 *Healthcare Connect Fund Funding Request Form* (Form 462) and the supporting information submitted by the HCP named above. Based on the information provided, RHC has determined that the HCP is eligible for the funding estimated below. It is the HCP's responsibility to review this FCL and verify that all information is accurate.

Multiple Expense Information

#	Expense Type	Bandwidth	Quantity of Items	Funding Start Date	Funding End Date
1	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
2	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
3	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
4	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
5	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
6	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
7	Construction - Management Services	NA/NA	1	11/01/2016	06/30/2019
8	Construction -	NA/NA	1	11/01/2016	06/30/2019

4	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
5	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
6	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
7	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
8	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38

9	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
10	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
11	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38
12	11/1/2016	6/30/2017	\$00.00	\$688,345.21	\$00.00	\$447,424.38	\$447,424.38

Year Two:

#	Funding End Date	Undiscounted Recurring Expense	Recurring Funding Amount	Total Approved Funding
1	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
2	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
3	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
4	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
5	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
6	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
7	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
8	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
9	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
10	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
11	6/30/2018	\$688,345.21	\$00.00	\$447,424.38
12	6/30/2018	\$688,345.21	\$00.00	\$447,424.38

Year Three:

#	Funding End Date	Undiscounted Recurring Expense	Recurring Funding Amount	Total Approved Funding
1	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
2	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
3	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
4	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
5	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
6	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
7	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
8	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
9	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
10	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
11	6/30/2019	\$688,345.21	\$00.00	\$447,424.38
12	6/30/2019	\$688,345.21	\$00.00	\$447,424.38

Total Approved Funding: \$16,107,277.84

HCP Physical Location: P.O. Drawer 4128, Bryan, TX, 77805-4128

Service Provider Name: Housley Communications, Inc.

Service Provider Identification Number (SPIN): 143048203

Evergreen: For the life of the original term of the contract, the HCP is not required to re-compete the service(s) identified above, nor post an FCC Form 461 *Healthcare Connect Fund Request for Services Form* (Form 461). An HCP that exercises an option to extend the duration of an Evergreen contract may do so without the competitive bidding process for that funding year; however, the option to extend the duration of an Evergreen contract must be memorialized in the terms of the original contract, and the HCP's decision to extend the duration of an Evergreen contract must occur before the HCP submits the Form 462 for the funding year in which the Evergreen contract expires.

Approved multi-year funding requests must have an Evergreen-endorsed contract. Once funding is approved for multi-year funding, the HCP does not have to submit a Form 462 for the service(s) identified above, through the funding end date shown above. An HCP with new services (or upgrades not requested in the original Form 461) must submit a Form 461, and participate in the competitive bidding process, before submitting a Form 462.

Your responsibility: It is the HCP's responsibility to review the information in this FCL. Contact RHC at rhc-hcp@usac.org if there is an error with the amount of funding or other information in this FCL.

If, at any time, the funded services are no longer provided to the HCP or the HCP is not otherwise receiving the approved funding, it is the HCP's responsibility to notify RHC immediately.

Information provided on Forms 461, 462, and the FCC Form 463 *Healthcare Connect Fund Invoice and Request for Disbursement Form* (Form 463) are subject to audit by RHC and the FCC. HCPs are subject to audits and other reviews by USAC and/or the FCC to ensure that the universal service funding is used in compliance with FCC program rules. If USAC discovers that funds are not used in compliance with program rules, an HCP may be subject to enforcement activities and other means of recourse by USAC and other appropriate federal, state, and local authorities.

Next Steps: The HCP must complete and submit the Form 463 through the "My Portal" website. The Form 463 will confirm receipt of the services and equipment for which funding has been approved and the date on which the service provider began providing those services. The service provider will 1) confirm the accuracy of the Form 463; 2) confirm that the HCP has paid its 35% contribution; and 3) submit the Form 463 to RHC for payment.

The Form 463 must be submitted by the date listed at the top of this letter (Invoicing Deadline) which is six months after the end date of the funding commitment. However, HCPs are encouraged to start the invoicing process as soon as services have started and a bill has been received from the service provider.

Receipt of funding commitments is contingent on compliance with all statutory, regulatory, and procedural requirements of the Rural Health Care HCF Program. HCPs that receive funding commitments may be subject to random audits, site visits, and other reviews by USAC to assure that funds have been committed and are used in accordance with all such requirements. USAC may be required to reduce or rescind funding commitments that were not issued in accordance with such requirements, whether due to action, or inaction, including but not limited to that by USAC, the HCP or the service provider. USAC, and other appropriate authorities (including but not limited to the Federal Communications Commission), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.

If you wish to appeal this decision, you may file an appeal with USAC or the FCC. The appeal must be delivered within 60 days of the date of this letter. Detailed instructions for filing appeals are available on the RHC website at www.usac.org/rhc/about/program-integrity/appeals.aspx

For questions or assistance, or if this email has been received in error, contact Rural Health Care at 1-800-453-1546, between 9:00 a.m. and 4:30 p.m. Eastern Time Monday through Friday or by email at rhc-hcp@usac.org.

All account holders and the service provider contact listed on the Form 498 will receive a copy of this FCL.

The information contained in this electronic communication and any attachments and links to websites are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering this communication to the intended recipient, be advised you have received this communication in error and that any use, dissemination, forwarding, printing or copying is strictly prohibited. Please notify the sender immediately and destroy all copies of this communication and any attachments.

EXHIBIT 4

**Email from Mr. Michael Parks, BVCOG, to RHC-Assist and
Ms. Blythe Albert, USAC, Subject: Carry over of multi-year award?
FRN: 16819351 and FRN: 16819841, Friday, December 07, 2018 9:24 AM**

From: Michael Parks [<mailto:Michael.Parks@bvcog.org>]

Sent: Friday, December 07, 2018 9:24 AM

To: RHC-Assist

Cc: Blythe Albert

Subject: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841

Dear RHC-Assist,

I am inquiring about the process to ask for an extension of a multi-year award we received in FY 2016. Since the beginning of our project, we have been working with Ms. Blythe Albert. Our project consists of a local consortia connecting health care providers here in the Brazos Valley in central Texas. Due to Hurricane Harvey, product supply limitations, and railroad permits to name a few, we (HCP: 33548) find ourselves needing to request an extension to our deadline of coming up in June 2019.

I would like to find out your process for making that request.

Michael Parks, AICP

Assistant Executive Director

Brazos Valley Council of Governments

P.O. Drawer 4128

3991 E. 29th Street

Bryan, TX 77805-4128

979-595-2801 x2001

www.bvcog.org

EXHIBIT 5

**Email from Ms. Blythe Albert, USAC, to Mr. Michael Parks, BVCOG,
Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN:
16819841 December 10, 2018**

From: Blythe Albert [<mailto:Blythe.Albert@usac.org>]

Sent: Monday, December 10, 2018 8:22 AM

To: Michael Parks <Michael.Parks@bvcog.org>; RHC-Assist <rhc-assist@usac.org>

Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841

Michael,

In general, USAC does not have the authority to extend deadlines. I would, however, direct you to the Order from the FCC for the 2017 Hurricane waiver. Here is the link to the FCC website where you can read the waiver:

<https://docs.fcc.gov/public/attachments/DA-18-267A1.pdf>

Regarding the two FY16 FRNs:

- FRN 16819841 was issued a single year commitment that ended on 6/30/2017. The invoicing deadline for this FRN should have been 12/30/2017. Please reach out to our invoicing team for information about that FRN.
- FRN 16819351 was issued as a multi-year commitment ending on 6/30/2019. The Hurricane Waiver Order is pretty explicit regarding funding years so I don't believe this FRN fits into that category. There is language in the HCF Order as follows that **may** be applicable to your situation:

"§ 54.634 Eligible services.

(b) *Eligibility of dark fiber.* A consortium of eligible health care providers may receive support for "dark" fiber where the customer, not the vendor, provides the modulating electronics, subject to the following limitations:

(1) Support for recurring charges associated with dark fiber is only available once the dark fiber is "lit" and actually being used by the health care provider. Support for non-recurring charges for dark fiber is only available for fiber lit within the same funding year, but applicants may receive up to a one-year extension to light fiber if they provide documentation to the Administrator that construction was unavoidably delayed due to weather or other reasons."

Hope this helps.

Best,

Blythe Albert PMP, MPM

(202)772-5248

Blythe.Albert@usac.org / www.usac.org

EXHIBIT 6

**Email from Mr. Michael Parks, BVCOG, to Ms. Blythe Albert, USAC, and RHC-Assist,
Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841
December 21, 2018**

From: Michael Parks [<mailto:Michael.Parks@bvcog.org>]
Sent: Friday, December 21, 2018 4:23 PM
To: Blythe Albert; RHC-Assist
Subject: RE: Carry over of multi-year award? FRN: 16819351 and FRN: 16819841

Blythe,

Brazos Valley is seeking a one-year extension to light its dark fiber network.

As you noted, the Commission's rule states:

§ 54.634 Eligible services.

(b) *Eligibility of dark fiber.* A consortium of eligible health care providers may receive support for "dark" fiber where the customer, not the vendor, provides the modulating electronics, subject to the following limitations:

(1) Support for recurring charges associated with dark fiber is only available once the dark fiber is "lit" and actually being used by the health care provider. Support for non-recurring charges for dark fiber is only available for fiber lit within the same funding year, but applicants may receive up to a one-year extension to light fiber if they provide documentation to the Administrator that construction was unavoidably delayed due to weather or other reasons."

Brazos Valley believes it meets that standard for the reasons stated below. Please let us know if you need additional information.

Our Health Care Provider (HCP) number is **33548**

Our HCP Contact is:

Mr. Michael Parks, AICP
P.O. 4128
3991 E. 29th Street
Bryan, TX 77805-4128

The FCC Form 461 application number is **100009019**

Our SPIN/498 is **143050560**

The FCC Form 462 number is **FRN16819351**

Our service provider (vendor) Name and SPIN/498 is **Housley Communications, 143048203**

Our billing account number for Housley Communications, our contractor, is **111301122 61000112402**

Our vendor's contract ID number is **868250**

Our approved funding period is **11/01/2016 to 06/30/2019**

We are requesting a one (1) year extension to the funding period. We request the June 30, 2019 funding deadline be extended to June 30, 2020. The construction for our project was unavoidably delayed due to several significant weather events. Our explanation for this change is multifaceted. Our funding request included the construction of a 320-mile 100 Gb backbone with 1 Gb connections to health care facilities across the Brazos Valley here in Central Texas. Our seven (7) county area is roughly the size of the state of Connecticut. It was obvious that due to the size and scope of this project it would take more than one funding cycle to accomplish. We were awarded the funding in the fall of 2016 and given three years to accomplish the task. The first year we were just coming out of declared severe storms and flooding disaster (DR-

4272, DR-4269) but managed to make progress to begin lighting sections of what would be the first of two fiber backbone rings.

Then we suffered through Hurricane Harvey (DR-4332) in August 2017 when our southern ring was about three-fourths finished right in the middle of our grant period. Not only did the hurricane damage some of our facilities, but the ensuing rain and destruction left from Harvey caused significant shortages in materials and labor needed for our construction. Our contractor worked tirelessly to acquire materials and crews but much of what was needed was diverted to the repair efforts all along the Texas Gulf Coast in 2017. Delays occurred while we waited for materials to become available. The flooding that occurred in our southern areas resulted in construction delays. More recently the fact is , just in the last two months we have seen 12.76 inches of rain greater than this same period last year! Crews have not been able to work many of the days when weather conditions proved too severe.

Because we lost so much time in 2017 and 2018 due to Hurricane Harvey and the other natural disasters described above, BVCOG is requesting a one (1) year extension and waiver to our deadline of June 30, 2019.

Michael Parks, AICP

BVCOG

EXHIBIT 7

**Email from Mr. Marcel Numa, USAC, to Mr. Michael Parks, BVCOG,
Subject: RE: Carry over of multi-year award - FRN: 16819351
Extension Granted, January 22, 2019**

From: Marcel Numa [<mailto:Marcel.Numa@usac.org>]

Sent: Tuesday, January 22, 2019 12:41 PM

To: Michael Parks <Michael.Parks@bvcog.org>

Cc: Carolyn McCornac <Carolyn.McCornac@usac.org>; Blythe Albert <Blythe.Albert@usac.org>; Erica Stauter <Erica.Stauter@usac.org>; Matthew Squire <Matt.Squire@usac.org>

Subject: Carry over of multi-year award - FRN: 16819351 / Extension Granted

Good Afternoon Michael – As per your request we have updated the funding end date in the Portal to reflect the extension granted due to the delays you encountered as a result of several significant weather events in 2017 and 2018. I have attached the original NCW and the updated NCW to this email. You can now access the updated NCW in My Portal. We have granted the extension based on the following language in the HCF Order:

” § 54.634 Eligible services.

(b) Eligibility of dark fiber. A consortium of eligible health care providers may receive support for “dark” fiber where the customer, not the vendor, provides the modulating electronics, subject to the following limitations:

(1) Support for recurring charges associated with dark fiber is only available once the dark fiber is “lit” and actually being used by the health care provider. Support for non-recurring charges for dark fiber is only available for fiber lit within the same funding year, but applicants may receive up to a one-year extension to light fiber if they provide documentation to the Administrator that construction was unavoidably delayed due to weather or other reasons.”

Please be mindful that as administrator we have the authority to extend your FY16 commitment for **one-year** as referenced in the excerpt from the HCF Order above. The new funding end date for these expenses is 6/30/2020. If the work is not completed by 6/30/2020, USAC does not have the authority to grant another extension. You would have to seek a waiver from the FCC for any further delays.

Please feel free to reach out with questions.

Marcel Numa

EXHIBIT 8

**Email from Mr. Michael Parks, BVCOG, to Mr. Marcel Numa, USAC,
Subject: RE: Carry over of multi-year award - FRN: 16819351
Extension Granted, September 17, 2019**

From: Michael Parks [<mailto:Michael.Parks@bvcog.org>]
Sent: Tuesday, September 17, 2019 12:36 PM
To: Marcel Numa
Cc: Blythe Albert; Jasmine Schoellman
Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted

Mr. Numa,

Hello. It's been many months since we last communicated. We have made great strides toward the completion of the fiber project for the Brazos Valley. In fact, we have several healthcare facilities that have quadrupled their bandwidth and are now able to put attachments on emails! Not to mention that they will soon be able to conduct telemedicine via our network if they choose to do so. Whereas, before connecting to the network that you funded, they were prohibited from doing any of that. Everything points to us being on track to finish within the extension you granted back in January.

I want to bring to your attention something that I'm hoping you can help us find a solution for. When we went pay an invoice from one of the vendors for equipment that was recently deployed, the system would not let us create a 463. This has never happened before. So, it took us by surprise. That being said it's important to point out that we have not had to made a 463 for equipment in quite a while. When building this system over the course of several years, it was agreed early on that we would not take procession or be billed for equipment that would not be installed right away. If we did the equipment would sit around for a year or more before being deployed. It would lose its warranty. Therefore, the equipment was only sent and deployed as sort of a "just in time delivery." Therefore, it would maximize the warranty and limit the liability to us in the event of a bad device sitting around only to be discovered as bad when its installed. With the delay we experienced back when we asked for the extension, up till now we have been making progress and have begun to install this equipment at a fevered pace this summer with more to come this fall.

When the system did not let us produce a 463 to pay this current invoice we immediately began to investigate what it might be. We learned of the fact that there are LOA's that have expired due to the extension being granted. If you recall, the original end date was in June 2019. In our haste to focus on getting this built, we did not see that coming. But rest assured we are well into the process of updating those and getting them uploaded to the system. This causes us to wonder if that might be the cause for the system not allowing us to complete 463?

The second thing we noticed after looking at this today, deals with the extension we asked for back in January. In the subject line of my email back then I listed both of our FRN's: 16819351 and 16819841. We graciously received an extension for 16819351. This was fabulously welcomed news. In my haste to get us on track with this build, I over looked following up to include the second FRN 16819841. It's this FRN that we need to make a 463 to pay these current invoices.

We are at your mercy. Do we have any options that you see where we can get to the point of being able to create the 463 for the equipment we need to finish this project? I've cc'd Blythe on this as she is well versed on the history of this project. Respectfully, I'm asking for advice on how to proceed.

Michael Parks, AICP
BVCOG

EXHIBIT 9

**Emails between Mr. Marcel Numa, USAC, and Mr. Michael Parks, BVCOG,
and Ms. Jasmine Schoellman, BVCOG, Subject: RE: Carry over of multi-year award -
FRN: 16819351 / Extension Granted, September 18, 2019**

From: Marcel Numa <Marcel.Numa@usac.org>
Sent: Wednesday, September 18, 2019 3:48 PM
To: Jasmine Schoellman <Jasmine.Schoellman@bvcog.org>
Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted

No you can't since it was issued at a one year commitment. USAC does not have the authority. You can seek a waiver with the Commission.

Thank you.

Marcel

From: Jasmine Schoellman [<mailto:Jasmine.Schoellman@bvcog.org>]
Sent: Wednesday, September 18, 2019 4:25 PM
To: Marcel Numa
Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted

Can we still request this extension?

Jasmine Schoellman, CPA
Deputy Director of Finance
Brazos Valley Council of Governments
Office: (979) 595-2801 ext. 2203
Fax: (979) 595-2817
Jasmine.schoellman@bvcog.org

From: Marcel Numa <Marcel.Numa@usac.org>
Sent: Wednesday, September 18, 2019 3:17 PM
To: Michael Parks <Michael.Parks@bvcog.org>
Cc: Blythe Albert <Blythe.Albert@usac.org>; Jasmine Schoellman <Jasmine.Schoellman@bvcog.org>
Subject: RE: Carry over of multi-year award - FRN: 16819351 / Extension Granted

Good Afternoon Mr. Parks:

Thank you for your email. We are pleased to hear that you are making progress and have begun to install the equipment at a fevered pace.

With respect to the second FRN 16819841, it was issued as a single year commitment that ended on 6/30/2017 and the invoicing deadline for this was 12/30/2017.

Extension should be requested during the funding year; however, this request was not considered since it did not meet the rules under § 54.634 **Eligible services.**

Please let me know if you have any questions.

Thank you.

Marcel