

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259
	)	
Petition of BARConnects, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia	)	

**PETITION FOR WAIVER AND REQUEST FOR EXTENSION OF TIME TO FILE  
PROOF OF ETC DESIGNATION OF BARCONNECTS, LLC**

BARConnects, LLC (“BARConnects”), a wholly owned subsidiary of BARC Electric Cooperative, hereby respectfully petitions the Federal Communications Commission (the “Commission”), pursuant to 47 C.F.R. § 1.3, for a waiver and extension of the deadline in the above-captioned proceeding, requiring the submission of proof of designation as an Eligible Telecommunications Carrier (“ETC”) by June 2, 2015.<sup>1</sup> For the reasons explained herein, good cause exists to grant the relief requested with respect to this requirement.

**I. FACTS.**

On March 4, 2015, the Commission announced that BARConnects was one of the additional provisionally selected recipients for funding via the Rural Broadband Experiments.<sup>2</sup>

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<sup>1</sup> See Wireline Competition Bureau Announces Additional Provisionally Selected Bidders for Rural Broadband Experiments and Sets Deadlines for Submission of Additional Information, WC Docket Nos. 10-90, 14-259, Public Notice, DA 15-288 (Wireline Comp. Bur. Rel. Mar. 4, 2015)(“Public Notice”) at 2.

<sup>2</sup> *Id.*

BARConnects immediately began discussions with the Virginia State Corporation Commission (“SCC”) regarding its requirement for designation as an Eligible Telecommunications Carrier in the census blocks where BARConnects was selected to receive Rural Broadband Experiments funding. On March 18, well within the Commission’s good faith standard, BARConnects filed a request with the SCC for ETC designation in the Commonwealth of Virginia or, if the SCC found it did not have jurisdiction to award such status, for the SCC to issue a decision that it did not have jurisdiction to grant BARConnects’ request.<sup>3</sup> The SCC advised BARConnects that it lacked jurisdiction to designate BARConnects as an ETC in the Commonwealth of Virginia. On March 30, 2015, the SCC released an Order finding that it lacked jurisdiction to designate BARConnects as an ETC.<sup>4</sup>

On April 22, 2015, BARConnects filed a Petition with the Commission for designation as an Eligible Telecommunications Carrier in the census blocks within the Commonwealth of Virginia where BARConnects was provisionally selected to receive Rural Broadband Experiments funds.<sup>5</sup> On April 28, 2015, the Commission released a Public Notice requesting comment on the BARConnects Petition.<sup>6</sup> No public comments were filed during the comment period. On May 18, 2015, BARConnects filed Reply Comments noting that there was no

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<sup>3</sup> See *Application of BARConnects, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to 47 U.S.C. § 214(e)*, Case No. PUC-2015-00015, Application for Designation as an Eligible Telecommunications Carrier, before the Commonwealth of Virginia State Corporation Commission (Mar. 18, 2015).

<sup>4</sup> See *Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, Rural Broadband Experiments*, WC Docket Nos. 09-197, 10-90, 14-259, Petition of BARConnects, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, before the Federal Communications Commission (Apr. 22, 2015) (“*FCC Petition*”) at Exhibit 1.

<sup>5</sup> See generally *FCC Petition*.

<sup>6</sup> See *Wireline Competition Bureau Seeks Comment on BARConnects, LLC’s Petition for Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, 14-259, Public Notice, DA 15-499 (Wireline Comp. Bur. rel. Apr. 28, 2015).

opposition to its Petition and therefore requesting the Commission grant its Petition.<sup>7</sup> The Commission has not yet ruled on BARConnects' Petition. The deadline for BARConnects to submit confirmation of its designation as an ETC is June 2, 2015.<sup>8</sup>

## **II. DISCUSSION.**

Pursuant to 47 C.F.R. § 1.3, the Commission may suspend, revoke, amend or waive its rules upon the showing of good cause.<sup>9</sup> Good cause exists to waive the ETC requirement for a short time because BARConnects complied with all applicable deadlines and diligently pursued its ETC designation. It is through no fault of BARConnects that it is unable to provide the required confirmation of ETC designation because the SCC did not have jurisdiction over BARConnects, requiring BARConnects to file its Petition with the Commission. The Commission has not granted the Petition prior to the June 2 deadline.

The Rural Broadband Experiment Order (“RBE Order”) states that entities applying for Rural Broadband Experiment funding were not required to be an ETC at the time of application, but could seek ETC designation after being selected.<sup>10</sup> Relying on this language, BARConnects did not seek designation as an ETC at the time of its application. The RBE Order also states that

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<sup>7</sup> See *Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund, Rural Broadband Experiments*, WC Docket Nos. 09-197, 10-90, 14-259, Reply Comments of BARConnects, LLC, before the Federal Communications Commission (May 18, 2015).

<sup>8</sup> See *Public Notice* at 2 (“Within 90 days of this Public Notice, by Tuesday, June 2, 2015, at 11:59p.m. EST, the bidders identified in the Attachment are required to upload to the FCC Form 5620 appropriate documentation of their designation as an eligible telecommunications carrier (ETC) in all areas for which they will receive support.”).

<sup>9</sup> 47 C.F.R. § 1.3.

<sup>10</sup> *Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98 (rel. July 14, 2014) (“*RBE Order*”) at para. 22 (“We remind entities that they need not be ETCs at the time they initially submit their formal proposals for funding through the rural broadband experiments, but that they must obtain ETC designation after being identified as winning bidders for the funding award.”).

entities selected for funding must confirm their ETC status within 90 days of the public notice announcing their selection or it would be considered in default and would forfeit its award.<sup>11</sup> However, the Commission noted that a waiver of the 90-day deadline may be appropriate if a provisionally selected entity can demonstrate it has engaged in good faith to obtain ETC designation but has not yet received approval.<sup>12</sup>

The Commission addressed the situation BARConnects faces in Footnote 52 of the RBE Order:

We expect entities selected for funding to submit their ETC applications to the relevant jurisdiction as soon as possible after release of the public notice announcing winning bids, and will presume an entity to have shown good faith if it files its ETC application within 15 days of release of the public notice.<sup>13</sup>

BARConnects filed its application for designation as an ETC with the SCC on March 18, 2015, 14 days after the release of the public notice provisionally selecting BARConnects to receive Rural Broadband Experiment funding. Once BARConnects received the Order from the SCC declining jurisdiction, BARConnects acted as quickly as possible to file its Petition with the Commission to obtain its ETC designation. BARConnects was well within its obligation to act in good faith as defined by the Commission.

Because the Commission has not yet issued an Order on BARConnects' Petition, BARConnects cannot provide proof of its ETC designation until after the 90-day window has expired. According to the RBE Order, BARConnects has shown good faith and a waiver of the 90-day deadline is appropriate. BARConnects anticipates the waiver will be of a very short duration which also supports the public interest in granting the waiver.

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *RBE Order* at fn. 52.

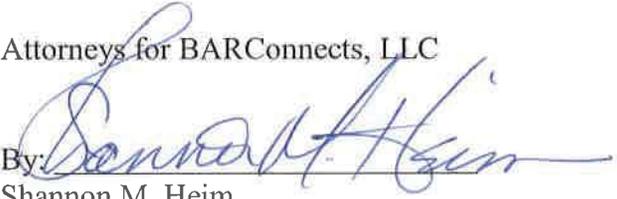
### III. CONCLUSION.

BARConnects acted in good faith by filing its ETC application with the SCC within 15 days of the public notice where it was provisionally selected to receive Rural Broadband Experiment funds, but the SCC declined jurisdiction. BARConnects quickly filed its Petition with the Commission, but the Commission has not yet issued an order granting BARConnects' petition. The RBE Order stated that a waiver of the 90-day deadline would be appropriate in situations where the entity acted in good faith but was unable to secure its ETC designation. BARConnects respectfully submits that good cause exists and asks the Commission to grant its Request for Waiver and Extension of Time.

Respectfully submitted,

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