



6601 Westown Pkwy, STE 200  
West Des Moines, Iowa 50266  
515-244-3500  
fax: 515-244-3599  
[www.sullivan-ward.com](http://www.sullivan-ward.com)

direct: 515-247-4710  
[dpuckett@sullivan-ward.com](mailto:dpuckett@sullivan-ward.com)

John T. Ward  
Louis R. Hockenberg  
Robert M. Holliday  
Mark Landa  
Dennis L. Puckett  
Samantha J. Gronewald  
Kyle A. Kruidenier  
Michael J. Green  
Elizabeth N. Overton  
David J. Hellstern  
△ L. Chris Knauf  
Amanda A. James

Retired  
Michael P. Joynt  
Richard R. Chabot  
  
William W. Sullivan  
[1919-1999]  
  
John V. Donnelly  
[1940-2010]  
  
Also Admitted in:  
△ Nebraska

**Law Offices  
Sullivan & Ward, P.C.**

**VIA ECFS**

September 14, 2015

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

Attention: Wireline Competition Bureau

**Re: Allamakee-Clayton Electric Cooperative, Inc. Petition for Waiver of ETC  
Designation Deadline for Rural Broadband Experiments  
WC Docket No. 10-09, WC Docket No. 14-259  
*Withdrawal of Request as Moot***

Dear Ms. Dortch:

Allamakee-Clayton Electric Cooperative, Inc. (Allamakee-Clayton), by its attorneys, and pursuant to the request of the Federal Communications Commission (“FCC” or “Commission”) staff, hereby withdraws the above-referenced Petition for Waiver (“Petition”) of the deadline established in the above proceeding to notify the Wireline Competition Bureau of the eligible telecommunications carrier status.

Subsequent to the filing of the Petition, on March 5, 2015, the Iowa Utilities Board (“IUB”) conditionally granted Allamakee-Clayton’s ETC Application, subject to the IUB’s review and approval of Allamakee-Clayton’s application for a certificate of public convenience and necessity (“CPCN”). Allamakee-Clayton then submitted documentation of this ETC designation to the FCC. On April 17, 2015, the IUB granted Allamakee-Clayton’s CPCN Application. Shortly thereafter, Allamakee-Clayton submitted copies of its CPCN Certificate and IUB Order issuing the certificate, and an Applicant Certification to certify that the CPCN covers the experiment area and the information is accurate.

Among other things, the Commission reviewed Allamakee-Clayton’s technical and financial information, a letter of credit commitment from a bank meeting the Commission’s requirements, and documentation of their eligible telecommunications carrier (ETC) designations in all of the areas for which they will receive support, and the FCC certified that the information submitted by Allamakee-Clayton was accurate. On August 7, 2015, the Commission released a

Public Notice announcing that the Wireline Competition Bureau authorized rural broadband experiment support to Allamakee-Clayton. In light of the Commission's authorization of support for Allamakee-Clayton's rural broadband bid, the Petition is moot and we hereby withdraw the same.

If you have any questions concerning this matter, please contact the undersigned.

Dated this 14th day of September, 2015.

Respectfully submitted,  
SULLIVAN & WARD, P.C.

/s/ Dennis L. Puckett  
Dennis L. Puckett AT0006476  
6601 Westown Parkway, Suite 200  
West Des Moines, Iowa 50266-7733  
Telephone: (515) 244-3500  
Facsimile: (515) 244-3599  
Email: [dpuckett@sullivan-ward.com](mailto:dpuckett@sullivan-ward.com)

Enclosures

cc: Alexander Minard, Telecommunications Access Policy Division  
Ian Forbes, Telecommunications Access Policy Division  
Heidi Landau, Telecommunications Access Policy Division



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

In the Matter of

WC Docket No. 10-90

Connect America Fund

WC Docket No. 14-259

Rural Broadband Experiments

**EMERGENCY REQUEST FOR EXPEDITED TREATMENT**

**PETITION OF ALLAMAKEE-CLAYTON ELECTRIC COOPERATIVE, INC.  
FOR WAIVER OF ETC DESIGNATION DEADLINE  
FOR RURAL BROADBAND EXPERIMENTS**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> Allamakee-Clayton Electric Cooperative, Inc. (“Allamakee-Clayton” or the “Company”) respectfully requests waiver of the March 5, 2015, deadline to submit appropriate documentation of its eligible telecommunications carrier (“ETC”) designation in each census block for which the Company is provisionally selected to receive Rural Broadband Experiment (“RBE”) support. Allamakee-Clayton was included among the entities provisionally accepted for RBE support in the FCC Public Notice of December 5, 2014,<sup>2</sup> and has worked diligently to ensure all RBE requirements are completed correctly and on time.

However the Iowa Utilities Board (“IUB” or “Board”) process for review and unconditional approval of the Company’s ETC designation will extend beyond March 5. Although the FCC encouraged state commissioners to adopt expedited approval processes for entities participating in the RBE, staff for the IUB has indicated that the IUB’s schedule, as well

---

<sup>1</sup> 47 C.F.R § 1.3.

<sup>2</sup> *Wireline Competition Bureau Announces Entities Provisionally Selected for Rural Broadband Experiments; Sets Deadlines for Submission of Additional Information*, WC Docket No. 10-90, FCC Public Notice DA-14-1772 (Dec. 5, 2014) (“Public Notice”).

as the IUB's established procedures regarding public notice and providing an opportunity for hearing, will not allow the Company's ETC application to be determined by the deadline.

For the purpose of ETC designation, the IUB has adopted rules which parallel federal ETC requirements to prevent fraud and abuse of the universal service programs.<sup>3</sup> Applicants must demonstrate ability to provide the supported services over its own facilities, to comply with service requirements and consumer protection and service quality standards, to remain functional in an emergency, and must describe with specificity a two-year plan for proposed improvements and upgrades. Further, applicants must demonstrate service offerings are comparable to or exceed the incumbent offerings.

Allamakee-Clayton began to prepare for its Iowa ETC application upon release of the Public Notice and worked diligently to prepare a complete application which addressed all of the IUB's ETC designation criteria. The Allamakee-Clayton ETC application was filed on February 12, 2015.<sup>4</sup> The undersigned counsel has been in communication with IUB staff, both prior to the submission of the ETC application and subsequent to its submission. More recently, the IUB staff has informed Allamakee-Clayton that it would also need to submit an application for a certificate of public convenience and necessity (CPCN). It was not previously clear that a CPCN would be necessary due to perceived limitations on the IUB's jurisdiction regarding wireless VOIP services. The IUB staff has indicated the IUB will not be able to approve the CPCN and the ETC application before the deadline, although a conditional ETC designation may be possible. Therefore, Allamakee-Clayton respectfully requests the Commission waive the March 5, 2015 filing deadline for provisionally-selected RBE participants to submit documentation of ETC designation.

---

<sup>3</sup> See Iowa Admin. Code § 199-39.2 and 39.5.

<sup>4</sup> Application of Allamakee-Clayton Electric Cooperative, Inc. for Designation as an Eligible Telecommunications Carrier Docket No. ETA-2015-0001, IUB filed February 12, 2015.

## I. GOOD CAUSE EXISTS TO GRANT REQUESTED WAIVER

In general, the FCC's rules may be waived for good cause shown.<sup>5</sup> Waiver is appropriate where the "particular facts would make strict compliance inconsistent with the public interest."<sup>6</sup> The FCC may grant a waiver of its rules where the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>7</sup>

The Commission likely anticipated that there would be circumstances wherein a provisional winner would not be able to provide documentation of ETC designation within the 90-day timeframe, and the Commission noted in the *Rural Broadband Experiments Order*, "a waiver of this deadline may be appropriate if a winning bidder is able to demonstrate that it has engaged in good faith to obtain ETC designation, but has not received approval within the 90-day timeframe."<sup>8</sup> Allamakee-Clayton has acted in good faith to obtain ETC designation from the IUB, diligently worked to prepare the substantial information required, and timely filed its ETC application. However, the Company has been advised that the IUB will not be able to grant an unconditional ETC designation to Allamakee-Clayton until after the March 5, 2015 deadline.

The FCC has good cause to grant the Company's petition for waiver and extend the deadline to allow for the IUB public notice and review process. Allamakee-Clayton does not anticipate a significant delay and as such does not expect it will significantly impact the FCC's RBE schedule. Allamakee-Clayton filed an Application for a Certificate of Public Convenience and Necessity ("CPCN") to provide local telecommunications services in connection with its

---

<sup>5</sup> 47 C.F.R. § 1.3.

<sup>6</sup> See *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), citing *Northeast Cellular Tel. Co. v. FCC*, 987 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

<sup>7</sup> See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); see also *Northeast Cellular* (D.C. Cir. 1990).

<sup>8</sup> Rural Broadband Experiments Order at 22.

ETC application on March 2, 2015.<sup>9</sup> Iowa Code § 476.29(2) requires the IUB to make a determination within 90 days of the submission by the CPCN applicant of evidence supporting its application, thus the final date by which Allamakee-Clayton expects to obtain its ETC designation is May 31, 2015.

The FCC has good cause to grant Allamakee-Clayton waiver of the March 5 deadline as the Company has put forth a considerable amount of time and resources into its ETC application. Allamakee-Clayton's proposed RBE project will bring service to currently underserved, rural, sparsely populated areas in which historically there has not been a viable business case that makes financial and operational sense for investing in broadband infrastructure. Without RBE, these areas would continue to go underserved due to the extremely high cost of bringing the proposed services to these rural areas.

---

<sup>9</sup> Application of Allamakee-Clayton Electric Cooperative, Inc. for Certificate of Public Convenience and Necessity Docket No. TCU-2015-0003, IUB filed March 2, 2015.

