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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
VIASAT CARRIER SERVICES, INC. FOR)	CASE NO. VCS-T-18-01
DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER)	COMMENTS OF THE
)	COMMISSION STAFF
)	

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Sean Costello, Deputy Attorney General, submits the following comments.

BACKGROUND

On September 27, 2018, Viasat Carrier Services, Inc. (“Viasat” or the “Company”) applied¹ to the Commission for an order designating it as an eligible telecommunications carrier (ETC) in specific Idaho census blocks. The Company needs ETC designation so it can receive funding it was provisionally awarded² under the Federal Communications Commission (FCC) Connect America Fund Phase II Auction (CAF II Auction). Application at 1-2.

¹ Viasat filed a Supplement to its Application with the Commission on December 12, 2018.

² Viasat, Inc. (“VSI”), the parent company of Viasat Carrier Services, Inc., was provisionally awarded the CAF II Auction funding and, it claims, properly assigned its winning bid to Viasat. See Application at 4.

Overview of the Connect America Fund Phase II Auction

On January 31, 2018, the FCC issued an Order on Reconsideration concerning its Connect America Fund initiative, which enabled the FCC to move forward with the CAF II Auction, in which service providers competed to receive up to \$1.98 billion to offer voice and broadband service in unserved high-cost areas.³ That Order followed a series of orders establishing the details of the CAF II Auction.⁴ Under this program the FCC will disburse up to \$198 million annually for providers – including competitive providers such as competitive local exchange carriers, cable operators, fixed wireless ISPs, satellite broadband, or alternative providers such as electric utilities and governmental entities – to deploy broadband networks in high-cost unserved price cap areas.

On August 28, 2018, the FCC announced the Auction 903 results. The FCC designated Viasat as a winning bidder in 127 Census Block Groups in Idaho. Funding is contingent on Viasat demonstrating that it meets the FCC’s technical and financial qualifications, including obtaining ETC designation from the Idaho Public Utilities Commission by February 25, 2019, for the service area. ETC designation by this Commission is, therefore, a prerequisite for Viasat’s eligibility for funding.⁵

THE APPLICATION

Viasat is a Delaware corporation with its principal place of business in Carlsbad, California. *Id.* at 2. Viasat states it is an innovator in broadband technologies and services. Using end-to-end platform of high-capacity ka-band satellites, ground infrastructure and user terminals enabling it to provide “cost-effective, high-speed, high-quality broadband solutions to enterprises, consumers and government users around the globe.” *Id.* The Company also provides advanced wireless communications systems, secure networking systems and cybersecurity and information assurance products and services. The service for which the Company requests designation is set forth in the Company’s Application. *Id.* at 14.

The Company states it qualifies for ETC designation under the Federal Telecommunications Act (47 U.S.C. § 214(e)(1)), the Federal Communications Commission’s

³ Connect America Fund, et al., Order on Reconsideration, 33 FCC Rcd 1380 (2018).

⁴ See, e.g., Connect America Fund et al, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016).

⁵ Auction 903 Results Notice, para. 15, n. 11.

eligibility rules (47 C.F.R. § 54.101(a)), and other requirements set forth by this Commission, outlined in the Appendix to Commission Order No. 29841. *Id.* at 10-15.

The Company asserts it satisfies the requirements for designation as an ETC in that it: (1) has common carrier status; (2) commits and is able to provide services supported by federal universal support mechanisms; (3) will advertise the availability of supported services; (4) will, through its ETC designation, advance the public interest, convenience and necessity; (5) has contacted the Coeur d'Alene Tribe, Shoshone-Paiute Tribes, Nez Perce Tribe and has provided relevant and necessary Tribal notifications; (6) commits and is able to provide supported services as required by this Commission for ETC status; (7) is capable of managing traffic and maintaining functionality without an external power source; (8) complies with applicable consumer protection and service quality standards; and (9) will comply with annual reporting requirements established by this Commission. *Id.*

STAFF ANALYSIS

Staff reviewed Viasat's Application and conducted an analysis of the Company's fulfillment of the Federal Telecommunications Act of 1996, the Connect America Fund requirements, and Commission Order No. 29841. In addition, Staff analyzed the public interest benefits of awarding the Company a conditional ETC designation. Specific state and federal requirements for ETC designation are discussed in more detail below.

Public Interest Analysis

When applying the public interest test in an Application for ETC designation, Staff believes there are two primary considerations that merit discussion. First, Staff verifies that the Company will contribute to the appropriate Idaho Funds. Second, Staff analyzes whether the Company's Application raises "cream skimming" concerns.

In the Company's Application, Viasat confirmed that upon approval as an ETC in Idaho, the Company would participate in the appropriate Idaho programs, specifically the Idaho 9-1-1 program and any future reporting requirements deemed appropriate for competitive telecommunications providers. The Company requests ETC designation for entire census blocks in areas where price cap carriers previously declined support to serve and, therefore, no cream skimming analysis is required. *Id.* at 12 and Exh. A thereto. Thus, Staff believes Viasat satisfies the public interest considerations.

Network Improvement Plan

In the Idaho ETC Designation Order, a two-year network improvement and progress report is required for all ETCs receiving high-cost support. *See* Order No. 29841 at 18. However, the FCC waived the requirement for a winning bidder to file a five-year plan as part of the ETC designation process. Thus, Staff agrees that a network improvement plan is not a requirement for Viasat's ETC Application.

Ability to Remain Functional in Emergencies

The Company states that it has the ability to remain functional in emergency situations in accordance with Commission Order No. 29841 and 47 C.F.R. § 54.202(a)(2). Application at 13-14. Viasat asserts that it "is necessary to have in place contingency plans for credible emergency situations for each of the major network facilities that are geographically distributed across the United States ... ground-based facilities are equipped with independent power generators and sufficient fuel to operate for several days so as to mitigate power outages. The design of these facilities contains multiple levels of redundancy and autonomy that also mitigate the need for dedicated human interaction." Application at 13-14. Staff agrees Viasat satisfies this requirement.

Other ETC Designation Requirements

Additional requirements for ETC designation are detailed in Appendix 1 of Order No. 29841 and are discussed in more detail below.

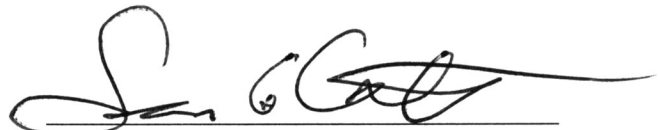
1. Common Carrier Status. Viasat is a common carrier as defined in U.S.C. Title 47. *Id.* at 10.
2. Provide Universal Services. Viasat will provide all required services and functionalities as set forth in Section 54.101(a) of the FCC's Rules (47 C.F.R. § 54.101(a)). *Id.* at 10-11.
3. Advertising. Viasat will advertise the availability and rates for its services described in the Application through media of general distribution as required by 47 U.S.C. § 214(e)(1)(B). *Id.* at 11.
4. A Commitment to Consumer Protection and Service. Viasat commits to satisfying all such applicable State and Federal requirements related to consumer protection and service quality standards. *Id.* at 14.

5. Description of the Local Usage Plan. Viasat has provided a description of its local usage plan. *Id.* at 14.

STAFF RECOMMENDATIONS

Based on its review of the Company's Application, Staff believes that the Application demonstrates the Company's commitment to fulfill the obligations of an ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory; it has addressed all of the public interest questions that accompany an ETC Application; and it will provide a local usage plan. Thus, Staff believes Viasat's Application for designation as an ETC in Idaho is in the public interest and should be approved.

Respectfully submitted this  day of January 2019.



Sean Costello
Deputy Attorney General

Technical Staff: Daniel Klein

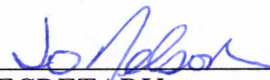
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 8TH DAY OF JANUARY 2019, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. VCS-T-18-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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