

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

In the Matter of)
)
ETC Annual Reports and Certification) WC Docket No. 14-58

**SUPPORTING COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby files its supporting comments and urges the Wireline Competition Bureau (“Bureau”) to grant both the “Petition for Temporary Waiver of TDS Telecommunications LLC” which was filed in the referenced proceeding on September 30, 2020 (“TDS California Waiver Petition”) and the “Petition for Waiver of TDS Telecommunications LLC” which was filed in the referenced proceeding on October 1, 2020 (“TDS Waiver Petition”). WTA is submitting these comments pursuant to the procedures and schedules set forth in the Public Notice (*Wireline Competition Bureau Seeks Comment on Two TDS Telecommunications LLC Petitions for Waiver of Section 54.316 of the Commission’s Rules*), WC Docket No. 14-58, DA 20-1168, released October 6, 2020.

WTA is a national trade association that represents more than 350 rural telecommunications service providers, including TDS Telecommunications LLC (“TDS”) subsidiaries and affiliates, that provide voice, broadband and video-related services in rural America. WTA is familiar with both of the subject TDS petitions, and is convinced that they demonstrate good cause for both requested waivers on factual, equitable and policy grounds.

TDS California Waiver Petition

TDS has requested temporary waiver of Section 54.311(d) of the Commission’s Rules to move the first interim deployment milestone for its Alternative Connect America Cost Model (“A-CAM”) service obligations in California from December 31, 2020 to July 1, 2021. It states that despite its prudent and diligent efforts to develop and implement a realistic and compliant California construction plan that factored in reasonable amounts of time to allow for typical delays, the onset of the COVID-19 pandemic and quarantines resulted in substantial and extraordinary disruptions and delays that it could not have reasonably anticipated.

TDS describes two critical broadband construction and deployment projects that have been delayed significantly due to COVID-related circumstances beyond its control. The first and most significant of these was a construction project intended to serve locations around the town of Winterhaven, California. The project had been engineered, and substantial portions of the outside plant (33 percent) and duct work (95 percent) completed, when the Quechan Indian Tribe issued a stop work order for COVID reasons on April 7, 2020, with respect to a critical portion of the build-out. The second major problem was caused by COVID-related travel restrictions that precluded a trip to the Hornitos, California area by TDS’s microwave engineering contractor from early March 2020 to late June 2020, and thereby delayed completion of planned construction and deployment in the Hornitos area by at least four months. In the absence of the COVID-related delays, TDS asserts that it would have completed both the Winterhaven and Hornitos build-outs by the end of 2020, and would have thereby satisfied its first Section 54.311(d) interim deployment milestone for California.

As the Commission and Bureau are well aware, COVID-19 has been the most serious and disruptive worldwide public health crisis since the Spanish Flu of 1918. It is a classic “special

circumstance” that has wreaked havoc that was wholly unanticipated during early 2020 and that has caused construction delays that were wholly outside the control of TDS. It would be extremely inequitable to penalize TDS for reasonably planned construction that it would have completed in timely fashion “but for” the COVID pandemic disruptions and that it is now trying to complete as soon as permitted by California conditions and regulations. Moreover, such penalties would make it more difficult for TDS to complete the broadband construction and service deployment that the COVID quarantines have shown to be critically important to enable people to reduce the spread of the disease by working, attending school and receiving health care from their homes.

For these and the reasons specified by TDS itself, WTA urges the Bureau to grant the proposed temporary waiver of the initial Section 54.311(d) interim California deployment milestone for good cause shown and because such waiver will serve the public interest.

TDS Waiver Petition

TDS also requests waiver of certain reporting deadlines in Section 54.316 of the Commission’s Rules and the *HUBB Reporting Public Notice*.¹ TDS asserts that it has made all required geocoded location data filings in the High Cost Universal Broadband portal (“HUBB”) prior to the applicable deadlines. However, it has determined that not all locations to which TDS companies had actually made required broadband service available were included in these HUBB reports during 2018 and 2019. As a result, TDS will not be able to demonstrate that it has actually met its initial interim service milestone in New Hampshire by the end of 2020, and may not be able to meet annual interim service milestones in several other states during future years.

TDS emphasizes that it has actually deployed the requisite broadband speeds to the inadvertently omitted locations. In other words, since 2018 or 2019, the customers at such

¹ Public Notice (*Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Requirements*), WC Docket No. 10-90, 31 FCC Rcd 12900.

locations have actually enjoyed the ability to obtain the broadband services and speeds for which TDS's high cost support was intended. TDS blames the age and limitations of its multiple and diverse service addressability systems for these underreporting problems. It declares that it has been working to improve its processes for identifying and reporting locations since its first HUBB filings and that it has recently implemented strong controls to improve these processes.

WTA believes that the controlling fact with respect to the proposed waiver is that TDS has actually deployed the requisite level of broadband service during 2018 and 2019 to the inadvertently unreported locations. Put simply, TDS has actually met its initial 2020 interim service milestone in New Hampshire, and has actually deployed the requisite level of broadband service to locations that will enable it to meet its interim service milestones during future years in the other affected states.

Where a high cost support recipient like TDS has actually deployed broadband to enough locations to permit it to meet its build-out obligations, equity requires that the Bureau waive its reporting rules to permit it to correct inadvertent omissions and to furnish the Commission with complete and accurate data regarding the extent of its broadband deployment. This is particularly equitable where a high cost support recipient like TDS submitted all of its required HUBB filings in a timely fashion but made some inadvertent omissions and errors in its initial efforts to deal with what was recognized to be an unfamiliar, difficult and complicated HUBB reporting system.

Grant of the requested waiver is also good policy that serves the public interest in broadband deployment. Service providers like TDS that have used their high cost support to deploy broadband to a concrete and specific number of actual locations should not be penalized because they inadvertently failed to include a number of those deployed locations in their HUBB reports. Rather, the critical policy objective should be to evaluate and support high cost recipients

on the basis of their real-world performance rather than punishing them for filing mistakes or omissions that do not reflect reality.

Conclusion

WTA reiterates that good cause exists for grant of both proposed TDS waivers. Not only do the particular facts and special circumstances of each situation make strict compliance with Section 54.316 inconsistent with the public interest, but also the waivers will serve the public interest by increasing equity and enabling the more effective implementation of overall policy.

Respectfully submitted,
WTA – ADVOCATES VFOR RURAL BROADBAND

/s/ Derrick B. Owens

/s/ Gerard J. Duffy

Derrick B. Owens
Senior Vice President of Government
and Industry Affairs
400 Seventh Street, NW, Suite 406
Washington, DC 20004
(202) 548-0202

Gerard J. Duffy, Regulatory Counsel
Blooston, Mordkofsky, Dickens, Duffy &
Prendergast, LLP
2120 L Street, NW, Suite 300
Washington, DC 20037
(202) 659-0830

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