



# PUBLIC NOTICE

**Federal Communications Commission**  
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**DA 22-1110**

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**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON R.M. GREENE, INC.  
AKA BEAM'S RURAL DIGITAL OPPORTUNITY FUND PETITION FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

**WC Docket No. 09-197**

**Comment Date: November 21, 2022**

**Reply Comment Date: December 5, 2022**

The Wireline Competition Bureau (WCB or Bureau) seeks comment on the petition of R.M. Greene, Inc. aka Beam (Beam) for designation as an Eligible Telecommunications Carrier (ETC).<sup>1</sup> Beam is seeking designation for the purpose of receiving Rural Digital Opportunity Fund (RDOF) support associated with certain census blocks (Assigned Blocks) in Alabama.<sup>2</sup> This support was originally part of a larger RDOF award to Point Broadband Fiber Holding, LLC (Point) which WCB authorized Point to receive in exchange for a commitment to meeting a defined deployment obligation and specific public interest obligations.<sup>3</sup> Beam and Point have sought WCB's approval of a Section 214 license transfer application (214 Transfer Application) to assign part of this support and related facilities for the Assigned Census Blocks in addition to all rights, obligations, and conditions associated with the receipt of the support, which remains pending.<sup>4</sup> Accordingly, Beam's ETC designation for the purpose of receiving RDOF support will be conditioned upon approval of the 214 Transfer Application.

ETC designation is a prerequisite to receiving universal service support available through the high-cost and Lifeline programs.<sup>5</sup> To receive an ETC designation, a petitioner must, in addition to meeting high-cost program requirements and other related obligations as specified below, offer the Lifeline discount on all qualifying services in areas where it receives high-cost support, deploy a network

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<sup>1</sup> Petition of R.M. Green, Inc. aka Beam for Eligible Telecommunications Carrier Designation, WC Docket No. 09-197 (filed Sept. 21, 2022) at <https://www.fcc.gov/ecfs/document/10921256062403/1>, as amended, Letter to Marlene H. Dortch, FCC, from Joan Budd, R.M. Green, Inc. and K.C. Halm, Counsel for R.M. Green, Inc. (filed Oct. 13, 2022), <https://www.fcc.gov/ecfs/document/101488879244/1>.

<sup>2</sup> As stated in its 214 Transfer Application, Beam seeks receipt of all future RDOF support for the Assigned Census Blocks that it estimates at \$892,797.21 annually in exchange for service to 3,420 locations in 21 Census Block Groups in Alabama. See Point Broadband Fiber Holding, Inc., Assignor, (Point) and R.M. Greene, Inc. aka Beam, Assignee, (Beam), Application for Consent to Partial Assignment of Domestic Section 214 Authorization, WC Docket No. 22-344, at 2 and Exh. 1, List of Assigned Census Blocks (filed Sept. 9, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/1092123502320> (214 Transfer Application).

<sup>3</sup> Rural Digital Opportunity Fund Support Authorized for 466 Winning Bids, Public Notice, DA 21-1158 (WCB/OEA/RBATF Sept. 15, 2021).

<sup>4</sup> See 214 Transfer Application at 2.

<sup>5</sup> 47 U.S.C. § 254(e).

capable of delivering service that meets the Lifeline program's minimum service standards, and commercially offer such service pursuant to its high-cost obligations.<sup>6</sup>

### Requirements for FCC ETC Designation

Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”<sup>7</sup> Congress gives primary authority for ETC designations to state commissions.<sup>8</sup> The Federal Communications Commission (FCC or Commission) has authority only when “a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>9</sup> The petitioner for ETC designation must demonstrate that the FCC has jurisdiction and may do so by submitting an “affirmative statement from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission's jurisdiction.”<sup>10</sup> The Commission has delegated authority to the Bureau to consider appropriate ETC designation requests.<sup>11</sup>

A petition for ETC designation by the FCC must include: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act; (2) a certification that the petitioner offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services;<sup>12</sup> (3) a description of how the petitioner advertises the availability of the supported services and the charges therefor using media of general distribution;<sup>13</sup> (4) a detailed description of the geographic service area for which the petitioner requests to be designated as an ETC;<sup>14</sup> and (5) a certification that neither the petitioner, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>15</sup>

In addition, a petitioner must demonstrate its ability to meet certain service standards. A petitioner seeking an ETC designation for purposes of becoming eligible to receive RDOF support must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; and (3) demonstrate its ability to satisfy applicable consumer protection and service quality standards.<sup>16</sup> Further, prior to designating a

<sup>6</sup> 47 CFR part 54, subparts D, K, L, M.

<sup>7</sup> 47 U.S.C. § 254(e).

<sup>8</sup> *Id.* § 214(e)(2).

<sup>9</sup> *Id.* § 214(e)(6).

<sup>10</sup> *See Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12267, para. 120 (2000); 47 U.S.C. § 214(e)(6).

<sup>11</sup> *See Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>12</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(1).

<sup>13</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(2).

<sup>14</sup> An ETC's “service area” is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). Although section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), requires conformance of a competitive ETC's service area and an incumbent rural telephone company's service area, the Commission has separately forbore from imposing such requirements on Auction 904 support recipients. *See Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126, 10-90, Report and Order, 35 FCC Rcd 686, 728, paras. 93-94 (2020).

<sup>15</sup> 21 U.S.C. § 862; 47 CFR § 1.2002(a)–(b).

<sup>16</sup> *See* 47 CFR § 54.202(a).

petitioner as an ETC pursuant to section 214(e)(6) of the Act, the Commission must determine whether such designation is in the public interest.<sup>17</sup>

### Comment Filing Requirements

Interested parties may file **comments on or before November 21, 2022** and **replies on or before December 5, 2022**. All pleadings must reference **WC Docket No. 09-197**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>18</sup>

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>19</sup>

*Additional Copies.* Parties should send a copy of their filings to by e-mail to [Nissa.Laughner@fcc.gov](mailto:Nissa.Laughner@fcc.gov).

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

*Permit but Disclose Ex Parte Communications.* For the purposes of the Commission's *ex parte* rules, each petition submitted pursuant to section 214(e)(6) will be treated as initiating a permit-but-disclose proceeding under the Commission's rules.<sup>20</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).<sup>21</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex*

<sup>17</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b). For Auction 904 support recipients, the Bureau waived certain requirements in section 54.202 of the Commission's rules and adopted a presumption that designation will serve the public interest. *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, WC Docket No. 19-126 et al., Public Notice, 35 FCC Rcd 13888, 13901 n.71 (RBATE/OEA/WCB 2020). Because Beam will stand in the shoes of Point upon approval of the 214 Transfer Application with respect to service and support for the Assigned Census Blocks, the Bureau finds that Beam is in the same position as an RDOF support awardee and is entitled to the same waivers and presumption.

<sup>18</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998); 63 Fed. Reg. 24121 (1998).

<sup>19</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

<sup>20</sup> See 47 CFR § 1.1206.

<sup>21</sup> *Id.* § 1.1206(b)(2)(iii).

*parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation.<sup>22</sup> If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum.<sup>23</sup> Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b).<sup>24</sup> In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable.pdf).<sup>25</sup> Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For additional information on this proceeding, please contact Nissa Laughner [Nissa.Laughner@fcc.gov](mailto:Nissa.Laughner@fcc.gov) of the Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

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<sup>22</sup> *Id.* § 1.1206(b)(1).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* § 1.1206(b)(2).

<sup>25</sup> *Id.* § 1.1206(b)(2)(i); *see also id.* § 1.49(f).