



PUBLIC NOTICE

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DA 24-450

Released: May 10, 2024

AUTHORIZATION OF RESOUND NETWORKS, LLC TO CONNECT AMERICA FUND (CAF) PHASE II AUCTION SUPPORT TRANSFERRED FROM ECHO WIRELESS BROADBAND, INC.

WC Docket No. 10-90

On May 16, 2023, the Wireline Competition Bureau (Bureau) approved a transfer of a domestic section 214 authorization from Echo Wireless Broadband, Inc. (Echo) to Resound Networks, LLC (Resound) (together, Parties),¹ pursuant to section 214 of the Communications Act of 1934, as amended (Act) and sections 63.03-04 of the Commission's rules.²¹ As a result of this approval, the Parties have received Commission consent to transfer certain assets of Echo – including Echo's Connect America Fund Phase II auction (CAF Phase II) support and associated obligations to serve eligible areas in Texas and New Mexico – to Resound, subject to, and conditioned upon, Resound's authorization to receive this support.³ Consistent with this approval, the Bureau authorizes Resound to receive this support, as described in more detail below.

In 2019, the Commission authorized Echo to receive a 10-year total of \$3,933,712.70 in CAF Phase II support to deploy voice and broadband service to 1,093 qualifying locations in 439 census blocks

¹ See *Domestic Section 214 Application Granted for the Acquisition of Certain Assets of Echo Wireless Broadband, Inc. by Resound Networks, LLC*, WC Docket 21-277, Public Notice, DA 23-417 at 1, 5 (WCB rel. May 16, 2023) (*214 Transfer Public Notice*); see also *Application of Echo Wireless Broadband, Inc. and Resound Networks, LLC for Consent to Assignment of Domestic Section 214 Authorization*, WC Docket No. 21-277 (filed June 28, 2021) (Application). Applicants filed supplements to their domestic section 214 application on July 2, 2021, November 17, 2021, July 19, 2022, and March 29, 2023. Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed July 2, 2021) (July 2 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed Nov. 17, 2021) (Nov. 17 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed July 19, 2022) (July 19 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed Mar. 29, 2023) (Mar. 29 Supplement).

² See 47 U.S.C. § 214; 47 CFR § 63.03-04. See *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Order, 36 FCC Rcd 9384, 9393-94, para. 30 (WCB 2021) (“[Eligible Telecommunications Carriers (ETCs)] seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications.”). “Transfers of control and assignments of international section 214 authorizations are separately subject to section 63.24 of the Commission's rules. Except where the Commission has forborne from the application of section 214, this requirement applies to all transfers of control or asset acquisitions involving ETCs.” *Id.*

³ See *214 Transfer Public Notice* at 1, 5.

in Texas,⁴ and a 10-year total of \$1,542,197.80 in CAF Phase II support to deploy service to 624 qualifying locations in 200 census blocks in New Mexico (collectively, Assigned Blocks).⁵ Pursuant to the terms of the approved transaction and as of its consummation, Echo has transferred its CAF Phase II obligations and associated support (net of any support received by Echo and used to support CAF Phase II-related expenses and costs) to Resound, conditioned upon Resound's authorization to receive the support.⁶ We note that in 2023, Resound has successfully completed the application process for, and has been authorized to receive, Rural Digital Opportunity Fund (RDOF) support in seven states, including Texas and New Mexico.⁷

As a condition of this authorization, Resound assumes sole responsibility for complying with universal service fund requirements and Commission rules, regardless of any preexisting or reasonably foreseeable conditions that could impact Resound's ability to meet its obligations in the future, including any technical, marketplace, and on-the-ground conditions.⁸ Indeed, any carrier seeking authorization to receive high cost support pursuant to a section 214 transfer must conduct the proper due diligence prior to consummation of the transaction, and, in doing so, must assume all risks and consequences of noncompliance with the transferred support requirements, including default recovery of support and potential forfeiture penalties.⁹ Resound must also meet all of the administrative, performance, and deployment obligations and deadlines associated with the acquisition of the CAF Phase II support areas,¹⁰

⁴ Application at 3; *see Connect America Fund Phase II Auction Support Authorized for 1,031 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 8009, 8046, Attach. A (WCB 2023) (Authorized Long-Form Applicants and Winning Bids) (WCB 2019) (*CAF Phase II Authorization Public Notice*).

⁵ Application at 3; *see also Connect America Fund Phase II Auction Support Authorized for 1,031 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 8009, 8046, Attach. A (Authorized Long-Form Applicants and Winning Bids) (WCB 2019) (*CAF Phase II Authorization Public Notice*).

⁶ *214 Transfer Public Notice* at 1, 4. Letter from Stephen E. Coran, Counsel to Yellowhammer Networks, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed May 1, 2024) (notice of consummation of the transaction).

⁷ *Id.* at 4; *see Rural Digital Opportunity Fund Support Authorized for 1,764 Winning Bids; Etheric Communications LLC's Petition for Waiver of the June 7, 2021 Eligible Telecommunications Carrier Documentation Deadline denied*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice, DA 23-33 (WCB 2023).

⁸ *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1390, para. 25 (2018) (explaining that applicants must "conduct the necessary due diligence prior to submitting their short-form applications, including identifying locations they will serve within the eligible areas, so that they can certify that they will be able to meet the relevant public interest obligations when they submit their applications"); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5966, para. 47 (2016) (*CAF Phase II Auction Report and Order*) (acknowledging that the risk of noncompliance is a factor in the bidding process but emphasizing that recipients of support awarded through a competitive bidding process generally have control over project areas and size and bid amounts).

⁹ 47 CFR §§ 54.315, 54.320(d); *CAF Phase II Auction Order*, 31 FCC Rcd at 6016-18, paras. 189-94.

¹⁰ 47 CFR §§ 54.802-806. The Bureau has provided a summary of the various obligations of authorized CAF Phase II support recipients in prior authorization public notices, including in the public notice authorizing Echo to receive the support relevant to this authorization. As stated in these public notices, the list is not intended to be comprehensive and all authorized parties are responsible for conducting the due diligence required to comply with universal service fund requirements and the Commission's rules. *See, e.g., CAF Phase II Authorization Public Notice* at 1. We note that in addition to the requirements and rules specified in the public notices, CAF Phase II support recipients must test and certify compliance with the relevant performance requirements in accordance with the uniform framework that has been adopted for measuring and reporting on high-cost performance requirements. *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509, 6530-33, paras. 56-67 (WCB 2018); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 10109, 10110, para. 4 (2019) (expanding performance measure testing requirements); *see generally Connect America Fund*, WC Docket No. 10-90, Order, WC Docket No. 10-90, Order, 35 FCC Rcd 14658 (WCB 2020) (clarifying certain requirements).

including the requirement to deploy voice and broadband service meeting minimum standards to 40% of its defined deployment obligation by the end of 2022, 60% of all locations by the end of 2023, 80% by the end of 2024, and 100% by 2025.¹¹ In addition, Resound must continue to meet its obligations and deadlines for its receipt of funding through the Rural Digital Opportunity Fund (RDOF).¹²

We find that Resound has sufficiently demonstrated its managerial, financial and technological capabilities to meet all CAF Phase II support obligations associated with the Assigned Blocks. In this regard, we find relevant the findings and related record in the associated 214 proceeding.¹³ In the *214 Transfer Order*, the Commission found that based on Resound's commitments and demonstrations on the record, it had the necessary managerial and operational expertise to meet buildout and performance obligations associated with the Assigned Blocks as well as the requisite financial expertise and resources.¹⁴ In addition, the Bureau found that granting the transfer would create public interest benefits by avoiding a potential default and any of the potential consequences thereof, including potential limitations of service in the Assigned Blocks.¹⁵ We note that as part of its RDOF authorization process in seven states, including Texas and New Mexico, Resound has further demonstrated that it can and will meet similar universal service obligations. For these reasons, we find that the designation of Resound to receive the transferred support and to meet related public interest and deployment obligations is appropriate.

We also find that Resound has met all prerequisites to authorization. The Texas Public Utility Commission and the New Mexico Public Regulation Commission have each separately and conditionally designated Resound as an ETC in the relevant Assigned Blocks in their respective states and have conditionally granted Echo the authority to relinquish its ETC designation for those same blocks.¹⁶ Resound has obtained an irrevocable letter of credit securing the requisite amount of support for the acquired area and is supported by a new Bankruptcy Opinion Letter.¹⁷

In sum, based on the above information and considerations and subject to the above limitations, we authorize Resound to receive the support associated with the Assigned Census Blocks. We direct

¹¹ *Connect America Fund; Connect America Fund Phase II Auction*, WC Docket No. 10-90, AU Docket Nos. 17-182, 20-108, Order, 35 FCC Rcd 109, 112-13, paras. 9-11 (WCB 2020) (aligning deployment milestones and reporting obligations for all CAF Phase II support recipients).

¹² Among other requirements, RDOF support recipients must deploy service to an increasing percentage of the CAM-estimated number of locations as of December 31st of each year beginning with a 40% milestone as of the third year of receiving support (2025), 60% as of the fourth year (2026), 80% as of the fifth year (2027), and 100% as of the sixth year (2028). 47 CFR § 54.802(c); *See Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 707-12, para. 45-55 (2020). The Commission will then adjust the initial defined deployment obligation assigned to each RDOF support recipient based on its determination of the number of locations with the supported area without an increase or decrease in support, subject to 35% margin. In addition, the support recipient must serve, upon reasonable request, new locations until the end of the eighth year of support (2030). *See Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 710-11, paras. 49-50; 47 CFR § 54.802(c).

¹³ *See 214 Transfer Public Notice* at 3-5.

¹⁴ *See id.* at 3-4.

¹⁵ *See id.* at 4-5.

¹⁶ *See July 19 Supplement* at 3-12 (Application of Echo Wireless Broadband, Inc. to Relinquish its ETC Designation and Application of Resound Networks, LLC for ETC Designation for the Service Area Previously Designated for Echo Wireless Broadband, Inc., Docket No. 52147, Order (Tex. Pub. Util. Comm'n, Jan. 14, 2022)); *see id.* at 13-22 (Joint Petition of Echo Wireless Broadband Inc. and Resound Networks, LLC for Echo Wireless to Relinquish its ETC Designation and to Transfer its FCC CAF Phase II Census Blocks to Resound Networks, LLC, Case No. 22-00045-UT, Order adopting Certification of Stipulation (New Mex. Pub. Reg. Comm'n, July 13, 2022)).

¹⁷ 47 CFR § 54.804(c).

USAC to disburse to Resound the CAF Phase II support from the universal service fund previously associated with SACs 449090 (Texas) and 499020 (New Mexico) and not previously disbursed to Echo. Resound has been assigned SACs 449107 (Texas) and 499033 (New Mexico) for this purpose.

For further information, please contact Nissa Laughner, Telecommunications Access Policy Division, Wireline Competition Bureau at 202-418-7400.

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