

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–93; DA 22–176; FR ID 75675]

Establishing Emergency Connectivity Fund To Close the Homework Gap

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) grants, in part, the Petition for Waiver filed by a group of Emergency Connectivity Fund Program stakeholders by waiving and extending the service delivery date to June 30, 2023 for all applicants who applied for Emergency Connectivity Fund support for equipment, other non-recurring services, and recurring services during the first and second application filing windows. The Bureau finds that due to the concurrent timing of the funding request processing and other factors beyond Emergency Connectivity Fund Program participants' control, certain first and second window applicants may not be able to use their committed funding to the full extent possible. The Bureau modifies the procedural rule and directs the Universal Service Administrative Company (USAC), the Administrator of the Emergency Connectivity Fund Program, to use June 30, 2023 as the service delivery date for all requests for equipment, other non-recurring services, and recurring services submitted during the first and second Emergency Connectivity Fund Program application filing windows.

DATES: Effective March 14, 2022.

FOR FURTHER INFORMATION CONTACT: Molly O'Connor, Wireline Competition Bureau, (202) 418–7400 or by email at Molly.OConor@fcc.gov. The Federal Communications Commission (Commission) asks that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Bureau's Order in WC Docket No. 21–93; DA 22–176, adopted February 22, 2022, and released February 22, 2022. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: [https://](https://www.fcc.gov/document/wcb-extends-ecf-service-delivery-date-june-30-2023)

www.fcc.gov/document/wcb-extends-ecf-service-delivery-date-june-30-2023.

I. Introduction

1. In this Order, the Bureau grants, in part, the Petition for Waiver filed by a group of Emergency Connectivity Fund Program stakeholders led by the Schools, Health & Libraries Broadband (SHLB) Coalition by waiving and extending the service delivery date to June 30, 2023 for all applicants who applied for Emergency Connectivity Fund support for equipment, other non-recurring services, and recurring services during the first and second application filing windows. The Bureau finds that due to the concurrent timing of the funding request processing and other factors beyond Emergency Connectivity Fund Program participants' control, certain first and second window applicants may not be able to use their committed funding to the full extent possible. Therefore, in providing this relief, the Bureau seeks to alleviate administrative burdens, streamline the process for Emergency Connectivity Fund Program participants, and ensure applicants are treated fairly and equitably regardless of when their applications are processed and funding commitment decision letters are issued. Accordingly, the Bureau modifies the procedural rule and directs USAC, the Administrator of the Emergency Connectivity Fund Program, to use June 30, 2023 as the service delivery date for all requests for equipment, other non-recurring services, and recurring services submitted during the first and second Emergency Connectivity Fund Program application filing windows.

II. Discussion

2. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

3. To ensure first and second window applicants can use all of their Emergency Connectivity Fund support to connect students, school staff, and library patrons regardless of when their application was processed and funding commitment decision letter was issued, the Bureau finds that good cause exists to waive and extend the service delivery date to June 30, 2023 for all first and second window funding requests for equipment, other non-recurring

services, and recurring services. In particular, the Bureau recognizes that in the swift implementation of this emergency program, the timing of application reviews, post-commitment change request processing, and the issuance of funding commitment decision letters may have inadvertently resulted in some applicants having less time to use the funded equipment and/or services during the July 1, 2021 through June 30, 2022 funding period. Moreover, other factors, such as disruptions in the global supply chain, logistical delays, and the ongoing impact of the COVID–19 pandemic on our nation's schools and libraries have contributed to the need for additional time and present compelling and unique circumstances that merit a waiver of our rules. As such, the Bureau extends the service delivery date for all Emergency Connectivity Fund Program requests for equipment, other non-recurring services, and recurring services submitted during the first and second application filing windows. This means that applicants will be able to receive Emergency Connectivity Fund support for the full requested twelve months of service, or for connected devices or other eligible equipment delivered by June 30, 2023.

4. The Bureau also concludes that extending the service delivery date will not lead to any undue advantage in funding as the first and second window applicants will not receive more funding than what is allowed under the Emergency Connectivity Fund Program rules. In addition, the Bureau finds that the public interest would not be served were these first and second window applicants to lose or not be able to fully use the committed Emergency Connectivity Fund support for the equipment and broadband services needed for these students, school staff, and library patrons to fully engage in remote learning during this unprecedented time. Rather, the action the Bureau takes will allow schools and libraries to provide and use the Emergency Connectivity Fund-supported equipment and services beyond the current June 30, 2022 service delivery date, thereby enhancing the off-campus connectivity available to students, school staff, and library patrons during the ongoing emergency period, consistent with the goals of the Emergency Connectivity Fund Program.

5. In granting the requested relief, the Bureau emphasizes that this Order does not impact funding requests for the construction of new networks or the provision of customer premises equipment for datacasting services. Unlike requests for equipment or

commercially available services, applicants seeking support for special construction or customer premises datacasting equipment are provided one year from the date of their funding commitment decision letter to demonstrate that construction is completed and the services have been provided. The one-year deadline for special construction and customer premises datacasting equipment was established to ensure the greatly needed services were provided as quickly as possible to these students, school staff, and library patrons with continuing unmet needs during the COVID-19 emergency period. Thus, in the interest of providing and fully using this emergency funding to meet the immediate connectivity needs of students, school staff, and library patrons nationwide, the Bureau limits the relief provided by this Order to requests for equipment, other non-recurring services, and recurring services requested during the first and second application filing windows.

6. The Bureau also acknowledges SECA's concerns about the potential impact that an extension of the service delivery date may have on future application filing windows. The Bureau is mindful that these funds are limited and have adopted safeguards to ensure the funds are fully used for their intended purpose. The Bureau further believes that taking a different approach than the one the Bureau adopts will contribute to further delays, impose additional administrative burdens on the affected first and second window applicants, and create confusion among program participants by switching from a consistent deadline to a more variable one. The Bureau concludes that extending the service delivery date to June 30, 2023 will streamline the process for all program participants and allow for the greater provision of affordable devices and connectivity to students, school staff, and library patrons in need during the ongoing pandemic and therefore, furthers the mission of the Emergency Connectivity Fund. The Bureau encourages applicants and service providers, who agree to invoice on behalf of the applicant, to continue to submit timely requests for reimbursement after receiving the requested eligible equipment or services, to allow any unused Emergency Connectivity Fund support to be made available to other

students, school staff, and library patrons with continuing unmet needs during this pandemic.

7. The Bureau is also mindful that certain applicants may have modified their first or second application filing window recurring services requests to reflect the dates that the services could be delivered between July 1, 2021 and June 30, 2022, based on the date of their funding commitment decision letter. For example, applicants may only be able to use funding for 6 months of service based on a January 1, 2022 dated funding commitment decision letter. If an applicant has modified a first or second window recurring services funding request, they may submit a waiver to the Commission asking that the voluntarily reduced funds be restored to those funding requests and subject to the updated June 30, 2023 service delivery date.

8. The Bureau modifies § 54.1711(e) accordingly to extend the service delivery date to June 30, 2023. The Bureau makes this change without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules. The updated rule will become effective March 14, 2022.

9. Finally, the Bureau finds no evidence of waste, fraud, or abuse is presented by waiving and extending the service delivery date to June 30, 2023. The Bureau emphasizes that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the Emergency Connectivity Fund Program are used for their intended purposes to provide broadband connectivity and connected devices to students, school staff, and library patrons with unmet needs during the ongoing COVID-19 emergency period. Although the Bureau grants a waiver of and extends the service delivery date for the first and second application filing window funding requests for the Emergency Connectivity Fund Program, these actions do not affect the authority of the Commission or USAC to conduct audits or investigations to verify compliance with Emergency Connectivity Fund Program rules and requirements.

III. Ordering Clauses

10. *Accordingly, it is ordered*, pursuant to the authority contained in sections 1-4 and 254 of the

Communications Act of 1934, as amended, 47 U.S.C 151-154 and 254, and §§ 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR 0.91, 0.291, and 1.3, that 47 CFR 54.1711 of the Commission's rules *is waived* to the extent provided herein.

11. *It is further ordered*, that pursuant to § 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this Order *shall be effective* upon release.

12. The amended rule adopted in this Order constitutes a rule of agency organization, procedure and practice and is not subject to the Administrative Procedure Act requirements. Accordingly, this amended rule is *effective* March 14, 2022.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Cheryl Callahan,

Assistant Chief, Telecommunications Access Policy Division Wireline Competition Bureau.

Final Rule

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609 and 1752 unless otherwise noted.

■ 2. Amend § 54.1711 by revising paragraph (e) to read as follows:

§ 54.1711 Emergency Connectivity Fund requests for reimbursement.

* * * * *

(e) *Service delivery date.* For the initial filing window set forth in § 54.1708(b) and any subsequent filing windows covering funding for purchases made between July 1, 2021 and June 30, 2022, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2023.

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