

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.

DOCKET NO. 20180180-TX  
ORDER NO. PSC-2018-0531-PAA-TX  
ISSUED: November 13, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DISMISSING APPLICATION FOR DESIGNATION AS  
AN ELIGIBLE TELECOMMUNICATIONS CARRIER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

**Background**

Viasat Carrier Services, Inc. (Viasat) is a wholly-owned subsidiary of Viasat, Inc. (VSI), which offers voice over internet protocol (VoIP) and broadband services through the use of their geostationary-satellite orbit satellite technologies. On August 28, 2018, VSI was selected as a winning bidder under the Federal Communications Commission's (FCC) recent Connect America Fund Phase II Auction. The Connect America Fund is a form of high-cost support that is part of the federal universal service fund.

The FCC did not require auction participants to be designated as Eligible Telecommunications Carriers (ETCs); however, winning bidders must obtain ETC designation within 180 days. Viasat must obtain ETC designation for 685 Census Blocks Groups covering Florida by February 25, 2019. Section 214(e)(2) of the Telecommunications Act of 1996 authorizes state commissions to designate common carriers as an ETC. In cases where a state commission lacks jurisdiction, Section 214(e)(6) provides that the FCC will make such ETC designations.

Currently, this Commission only evaluates wireline ETC applications, while wireless providers' ETC applications are evaluated by the FCC. In 2011, legislation was passed that removed our authority to designate wireless providers, including commercial mobile radio service providers, as ETCs.<sup>1</sup> Chapter 364.011, Florida Statutes (F.S.), outlines the types of service that are exempt from our jurisdiction and oversight. Specifically, Chapter 364.011, F.S., provides:

Exemptions from commission jurisdiction.—The following services are exempt from oversight by the commission, except to the extent delineated in this chapter:

- (1) Intrastate interexchange telecommunications services.
- (2) Broadband services, regardless of the provider, platform, or protocol.
- (3) VoIP.
- (4) Wireless telecommunications, including commercial mobile radio service providers.
- (5) Basic service.
- (6) Nonbasic services or comparable services offered by any telecommunications company.

On September 27, 2018, Viasat filed a petition for designation as an ETC with this Commission. Viasat requests that we find that it meets all requirements for ETC designation. In the alternative, Viasat seeks an affirmative statement that we do not have jurisdiction, and that Viasat should petition the FCC for ETC designation.

### **Decision**

Pursuant to federal law, we have the authority to designate carriers as ETCs if they meet certain requirements.<sup>2</sup> In 2011, the Florida Legislature removed our authority to designate wireless providers as ETCs.<sup>3</sup> Accordingly, effective July 1, 2012, we only evaluate wireline ETC applications, while wireless providers must directly apply with the FCC for Florida ETC designation. Furthermore, Section 364.011, F.S., provides that wireless telecommunications, including commercial mobile radio service providers, are exempt from oversight by this Commission.

Viasat is a facilities-based satellite provider that currently offers broadband Internet access and VoIP services. The satellite technology utilized by Viasat to provide its services has not been assessed by this Commission before, and it is not directly addressed in Section 364.011, F.S. However, like wireless providers, a satellite provider is not a wireline provider. As such, we do not find it appropriate to grant Viasat limited ETC status in Florida for the purpose of receiving Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services because this Commission only evaluates wireline ETC applications. We further find that, as a facilities-based satellite provider, Viasat should directly apply for Florida ETC designation with the FCC.

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<sup>1</sup> 2011 FL H.B. 1231, Adopted May 5, 2011.

<sup>2</sup> Section 214(e)(2) of the Telecommunications Act of 1996.

<sup>3</sup> 2011 FL H.B. 1231, Adopted May 5, 2011.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Viasat Carrier Services, Inc.'s Application for Designation as an Eligible Telecommunications Carrier is hereby dismissed as this Commission only evaluates wireline ETC applications and Viasat should directly apply for Florida ETC designation with the Federal Communications Commission. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 13th day of November, 2018.

  
CARLOTTA S. STAUFFER  
Commission Clerk

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 4, 2018.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.