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 applicants who applied for Emergency Connectivity Fund support during the July 1, 2021 through June 30, 2022 funding period.

DATES: Effective March 14, 2022.

FOR FURTHER INFORMATION CONTACT: Molly O’Conor, 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://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 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 during the ongoing emergency period, consistent with the goals of the Emergency Connectivity Fund Program.

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. Therefore, the Bureau extends the service delivery date for all 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.

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 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.
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 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.

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

give 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, 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(j), 155, 201, 205, 214, 219, 220, 229, 254, 303(f), 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


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