

Key Deadlines For Connect America Fund Phase II Bidders

By **James Falvey and Robert Gastner** (October 2, 2018, 2:33 PM EDT)

On Aug. 28, the Federal Communications Commission announced the winning bidders in the Connect America Fund Phase II Auction. [1]

The Connect America Fund Phase II is part of an overall plan by the FCC to reform and modernize its universal service subsidy programs. The FCC begin the roll out of its Phase II support by offering funds to several larger incumbent carriers (i.e. price-cap carriers). In 2015, the FCC's offer was accepted by ten price-cap carriers in exchange for deploying and maintaining voice and broadband service in the high-cost areas in their respective states.



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The FCC's recent auction then helped assign support funds for geographic areas around the country for which price-cap carriers did not accept the FCC's initial offer, as well as other miscellaneous areas ("Auction 93"). This auction ran from July 24, 2018, to Aug. 21, 2018, and 103 successful bidders won \$1.49 billion (to be allocated over 10 years) to provide fixed broadband and voice services to over 700,000 locations in 45 different states.



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In order to participate in the auction and receive funds from the FCC, participants had to complete a two-step application process. Just to participate in the auction, companies first had to establish baseline financial and technical capabilities via the FCC's short form application (i.e. FCC Form 183). For the winning bidders, the FCC will require the submission of a great deal of additional information via its long-form application (i.e. FCC Form 683). In each long-form application, the winning bidders will need to provide information regarding: (1) qualifications, funding and the network that they intend to use to meet their service obligations; (2) documentation that an eligible bank is willing and able to provide a letter of credit that will cover the FCC's subsidy disbursements until the FCC has verified the winning bidder's network build-out is complete; and (3) documentation that each winner bidder is an eligible telecommunications carrier, or ETC, in any areas for which they seek support.

According to the FCC, the CAF Phase II subsidies will provide new impetus to the rural build-out strategies of both incumbent and competitive local exchange providers, as well as electric cooperatives and other winning bidders. In its announcement of the winning bidders, the commission also disclosed a series of critical deadlines that must be met by winning bidders. The following is a brief summary of those deadlines. Additional detail on all of these deadlines can be found in the FCC Form 683 Instructions.

ETC Designation Petitions

For carriers that have not already been designated as ETCs, filing an ETC petition is high on the priority list. Carriers have until Monday, Feb. 25, 2019, to document to the commission their high-cost ETC designation for each state in which winning bids were made, including a letter from an officer of the company certifying that the ETC designation covers all the relevant areas. Providers that do not already have ETC designation should be thinking about filing an ETC petition at the state or federal level, as appropriate, as soon as practicable in order to provide the several months' time needed for regulatory review and approval. A near-term filing is necessary to be certain to meet this important ETC designation deadline.

Additional deadlines announced by the FCC on Aug. 28 include:

Long-Form Application Window

During this window, winning bidders will submit the long-form application portion of FCC Form 683 via the auction application system. The long-form application portion of the FCC Form 683 must be submitted and confirmed prior to 6:00 p.m. ET on Monday, Oct. 15, 2018. This filing window will open at 10:00 a.m. ET on Monday, Oct. 1, 2018, and close 6:00 p.m. ET on Monday, Oct. 15, 2018.

Filing Deadlines for Certain Information Permitted to be Filed Post-Long-Form Application Deadline

Certain information can be filed after the long-form application deadline has passed such as letter of credit commitment letters or detailed technology and system design descriptions. This information can be submitted via an applicant's Form 683 starting at 10:00 p.m. ET on Monday, Oct. 22, 2018.

The following information must be uploaded to the FCC Form 683, and the FCC Form 683 must be submitted and confirmed prior to 6:00 p.m. ET on the following dates:

Monday, Nov. 5

- For each state in which winning bids were made, a detailed description of the technology and system that will be used to meet the Auction 903 public interest obligations, including a network diagram certified by a professional engineer meeting the relevant requirements.
- A letter(s) for each applicable state from a bank acceptable to the commission committing to issue an irrevocable standby letter of credit meeting the relevant requirements to the long-form applicant.

Monday, Feb. 25

- As explained above, for each state in which winning bids were made, appropriate documentation of the long-form applicant's high-cost ETC designation and a letter(s) from an officer of the company certifying that the ETC designation covers all the relevant areas. The ETC petition process must be initiated soon at the state or federal level, as appropriate, in order to meet this deadline.

- One year of audited financial statements if audited financial statements were not submitted in the short-form application by the long-form applicant or a related entity.

No later than 10 business days after a public notice announcing the long-form applicant is ready to be authorized to receive support in a state(s):

- A letter(s) of credit meeting the relevant requirements for each state where the long-form applicant is ready to be authorized.
- A bankruptcy opinion letter(s) from legal counsel for the letter(s) of credit meeting the relevant requirements.

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[1] <https://www.fcc.gov/document/connect-america-auction-expand-broadband-713176-rural-locations>