

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Protecting Against National Security Threats to the
Communications Supply Chain Through FCC
Programs
WC Docket No. 18-89

ORDER

Adopted: July 22, 2024

Released: July 22, 2024

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) addresses the Petition filed by Puerto Rico Telephone Company, Inc. (PRTC or Petitioner) requesting an extension of its removal, replacement, and disposal term under the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program).1 The Bureau grants the extension pursuant to section 1.50004(h)(2)2 of the Commission’s rules and extends the term for PRTC from July 27, 2024 to January 27, 2025.

II. BACKGROUND

2. As directed by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act), the Commission established the Reimbursement Program to reimburse providers of advanced communications service with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk, i.e., communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE), that were obtained by providers on or before June 30, 2020.3 The Reimbursement Program is funded by a \$1.9

1 Request of PRTC for Extension of Time, WC Docket No. 18-89 (filed May 30, 2024), https://www.fcc.gov/ecfs/document/10530030327638/1 (Petition).

2 47 CFR § 1.50004(h)(2).

3 Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, § 4(a)-(c), 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609). The Commission adopted rules implementing the Secure Networks Act on December 10, 2020. Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284 (2020) (2020 Supply Chain Order). On July 13, 2021, the Commission amended its rules, consistent with amendments to the Secure Networks Act included in the Consolidated Appropriations Act, 2021. Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs, WC Docket No. 18-89, Third Report and Order, 36 FCC Rcd 11958, 11959, para. 2 (2021) (2021 Supply Chain Order). The Commission later clarified that, for purposes of the Reimbursement Program, covered communications equipment or services are limited to the communications equipment or services produced or provided by Huawei or ZTE that were obtained by providers on or before June 30, 2020. See 2021 Supply Chain Order, 36 FCC Rcd at 11959, 11965, paras. 2 and 18; see also Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – Huawei Designation, PS Docket No. 19-351, Order, 35 FCC Rcd 6604 (PSHSB 2020); Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – ZTE Designation, PS Docket No. 19-352, Order, 35 FCC Rcd 6633 (PSHSB 2020).

billion congressional appropriation,⁴ which is less than the \$5.6 billion in collective funds requested by applicants to the program.⁵ Because demand exceeded available funding, the Secure Networks Act required the Bureau to implement a prioritization scheme where funding was allocated first to approved applicants with 2,000,000 or fewer customers (Priority 1 applicants).⁶ Because demand from Priority 1 applicants alone exceeded the congressional appropriation, Commission rules required that allocations to Priority 1 applicants be pro-rated on an equal basis.⁷ Consequently, recipients received funding allocations for approximately 39.5% of their reasonable and supported estimated costs for removing, replacing, and disposing of covered communications equipment and services.⁸

3. Reimbursement Program recipients must complete the removal, replacement, and disposal of covered communications equipment and services within one year from the initial disbursement of funds to the recipient.⁹ Pursuant to section 4(d)(6)(C) of the Secure Networks Act, the Commission may grant recipients extensions of this term on an individual basis.¹⁰ The Commission delegated authority to the Bureau to grant or deny individual requests for an extension of a recipient's term.¹¹ The Bureau "may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term."¹²

⁴ Consolidated Appropriations Act, 2021, Pub. L. No. 116–260, § 906, 134 Stat. 1182 (2020) (CAA). Section 906 provides that "[t]here is appropriated to the Federal Communications Commission, out of amounts in the Treasury not otherwise appropriated, for fiscal year 2021, to remain available until expended— . . . (2) \$1,900,000,000 to carry out the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1601 et seq.), of which \$1,895,000,000 shall be used to carry out the program established under section 4 of that Act (47 U.S.C. 1603)."

⁵ See *Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774, at 1-2 (WCB July 18, 2022) (*SCRIP Granted Applications Public Notice*) (explaining that "[e]ach applicant was required to include in its application estimates for the costs that it will reasonably incur for the permanent removal, replacement, and disposal of covered communications equipment and services" and identifying that, across all filed applications, applicants sought a total of "approximately \$5.6 billion in gross program support").

⁶ See 47 U.S.C. § 1603(d)(5)(C); 47 CFR § 1.50004(f)(1); *SCRIP Granted Applications Public Notice* at 2-3.

⁷ The Commission's rules provide that "[i]f there is insufficient funding to fully fund all requests in a particular prioritization category, then the [Bureau] will pro-rate the available funding among all eligible providers in that prioritization category." 47 CFR § 1.50004(f)(1); see also 47 U.S.C. § 1603(d)(5)(A) ("[T]he Commission shall make reasonable efforts to ensure that reimbursement funds are distributed equitably among all applicants for reimbursements under the Program according to the needs of the applicants, as identified by the applications of the applicants.").

⁸ See 47 CFR § 1.50004(f)(1); see also *SCRIP Granted Applications Public Notice* at 2-3.

⁹ 47 U.S.C. § 1603(d)(6)(A); 47 CFR § 1.50004(h).

¹⁰ See 47 U.S.C. § 1603(d)(6)(C).

¹¹ See 47 U.S.C. § 1603(d)(6)(C); 47 CFR § 1.50004(h)(2) ("Individual extensions. Prior to the expiration of the removal, replacement and disposal term, a Reimbursement Program recipient may petition the Wireline Competition Bureau for an extension of the term. The Wireline Competition Bureau may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term. The Wireline Competition Bureau may grant more than one extension request to a recipient if circumstances warrant.").

¹² 47 CFR § 1.50004(h)(2); see also *2020 Supply Chain Order*, 35 FCC Rcd at 14354-56, paras. 171, 173 and n.501. The Bureau has granted individual extension requests to Reimbursement Program recipients. See, e.g., *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-875, para. 7 (WCB Sept. 22, 2023); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-938, paras. 12-16 (WCB Oct. 10, 2023); *Protecting Against National Security Threats to the Communications Supply Chain Through*

(continued....)

4. *PRTC Petition.* On May 30, 2024, PRTC filed its Petition in the Commission’s Electronic Comment Filing System (ECFS) requesting an extension of its removal, replacement, and disposal term from July 27, 2024 to January 27, 2025.¹³ In the Petition, PRTC asserts that its progress has been delayed as it works with customers to return their Huawei routers and modems to PRTC’s store locations.¹⁴

5. PRTC states that “Huawei routers and modems [were] loan[ed] to existing customers . . . to facilitate restoration of service after Hurricane Maria devastated communications infrastructure in Puerto Rico.”¹⁵ PRTC notes that it has purchased equipment “to replace the units on loan” and has been “exchanging covered equipment for non-covered equipment at its retail locations” since 2023.¹⁶ Despite these efforts, PRTC reports that “approximately 49% of customers had not returned the loaned equipment” as of May 2024.¹⁷ PRTC outlines various steps it has taken to notify customers of the need to return the equipment, including “(1) direct mail notifications, (2) contacting customers by telephone, (3) weekly communications via email and/or text, (4) automatic voice messages, (5) offering a service credit for returning the equipment, and (6) announcing a penalty for failure to return the equipment.”¹⁸ PRTC contends that, apart from the collection of this loaned equipment from individual customers, it has or will soon have completed all of its other program obligations, stating, for example, that it has “permanently removed from its fixed network 100% of the covered equipment.”¹⁹

6. PRTC contends that it would use the additional time afforded by an extension, if granted, to “further incentivize customers to return the equipment.” PRTC states that it would “implement a plan that would include on-site visits to make the process [of returning the loaned covered equipment] easier for consumers,” “notify customers that failure to return the equipment by a date certain will result in service disruption . . . consistent with all applicable laws and regulations,” and “continue its outreach efforts via mail, email, text, and voice messages.”²⁰ Accordingly, PRTC requests a six-month extension, to January 27, 2025.²¹

III. DISCUSSION

7. For the reasons described below, we find that PRTC has established that delays beyond its control prevent it from timely completing its project by the removal, replacement, and disposal term. Specifically, delays caused by the failure of some of its customers to return loaned equipment in a timely manner has impacted it so that, “due to no fault of such recipient, such recipient is unable to complete the

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FCC Programs, WC Docket No. 18-89, Order, DA 23-1016, paras. 12-16 (WCB Oct. 27, 2023); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-1110, paras. 8-11 (WCB Nov. 28, 2023); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-1196, para. 5 (WCB Dec. 21, 2023); *Streamlined Resolution of Requests Under the Secure and Trusted Communications Network Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-625 (WCB June 28, 2024).

¹³ See generally Petition.

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 2-3.

¹⁹ *Id.* at 2.

²⁰ *Id.*

²¹ *Id.*

permanent removal, replacement, and disposal by the end of the term,” as required by section 1.50004(h)(2) of the Commission’s rules.²² We therefore grant PRTC’s extension request.

8. PRTC explains that the complexity of collecting routers and modems from individual customers has delayed its ability to take necessary actions towards the completion of its removal, replacement, and disposal obligations.²³ Based on the facts presented, we agree with PRTC that the collection of numerous pieces of equipment from individual customers is a logistically complex task, requiring action to be taken by each of PRTC’s customers having loaned equipment in their possession, which has resulted in delays. We find that to date PRTC bears no fault for these delays in view of its diligent actions to notify customers of the need to return the loaned equipment, create incentives through credits and penalties for the prompt return of the loaned equipment, and complete the purchase of replacement equipment that will allow PRTC to perform exchanges promptly upon the return of loaned equipment.²⁴

9. PRTC’s quarterly status updates provide additional context and further support for our finding that an extension of its removal, replacement, and disposal term is appropriate.²⁵ In its status updates, PRTC previously raised issues consistent with those presented in its current extension request. For example, PRTC previously reported that, by the first quarter of 2023, it had “purchased and received sufficient replacement units” to replace the “approximately 29,003 pieces of covered equipment” on loan to customers.²⁶ PRTC noted then that only “approximately 39% of customers” had returned their covered equipment.²⁷ In its most recent status update, PRTC reported progress, noting “approximately 50% of customers” had returned their loaned equipment, but also noting that it would “need an extension of time” based on the slower “rate [at] which customers have been turning in their covered devices.”²⁸ In addition, PRTC describes in the Petition new steps it intends to take to accelerate the return of equipment by customers, including its plan to make “on-site visits” to customers, if it is granted an extension.²⁹ Based on PRTC’s previous diligence and continued proactiveness in its effort to receive all insecure equipment, we find that an extension of time will support PRTC’s efforts and ensure that insecure equipment does not remain in their consumers’ possession.

10. Accordingly, for these reasons, we find that PRTC has established that “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term,” as required by section 1.50004(h)(2) of the Commission’s rules. We thus grant PRTC’s request based on delays in returning the equipment that was loaned to customers in the wake of Hurricane Maria.

²² 47 CFR § 1.50004(h)(2).

²³ Petition at 2-3.

²⁴ *Id.*

²⁵ 47 CFR § 1.50004(k). For clarity, we note that statements made in status reports or spending updates filed in connection with the Reimbursement Program do not, by themselves, constitute official requests for an extension of a removal, replacement, and disposal term or any other relief. Entities seeking an extension of their removal, replacement, and disposal terms should file a formal request in the Commission’s ECFS.

²⁶ PRTC Reimbursement Program Status Update, at 2 (Jan. 6, 2024), <https://www.fcc.gov/sites/default/files/puerto-rico-telephone-company-01042024.pdf>.

²⁷ *Id.*

²⁸ PRTC Broadband Reimbursement Program Status Update, at 2 (Apr. 8, 2024), <https://www.fcc.gov/sites/default/files/puerto-rico-telephone-company-0001162.pdf>.

²⁹ Petition at 2.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to section 4(i)-(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i)-(j), and sections 0.204, 0.291, and 1.50004(h)(2) of the Commission's rules, 47 CFR §§ 0.204, 0.291, 1.50004(h)(2), the Petition for Extension of Time filed by PRTC is GRANTED.

12. IT IS FURTHER ORDERED that the removal, replacement, and disposal term for PRTC under 47 CFR § 1.50004(h)(2) IS EXTENDED from July 27, 2024 to January 27, 2025.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau