

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Investigation of)
Aristotle Unified Communications, LLC)
Related to the Connect America Fund) File No. TO-2023-0436
Phase II Auction)

ARISTOTLE’S INITIAL BRIEF

Aristotle Unified Communications, LLC (Aristotle), pursuant to Commission order, submits its Initial Brief on the single Issue presented in this proceeding and demonstrates that the Commission should certify Aristotle under rule 47 CFR 54.314 to continue to receive (albeit reduced) CAF II support funds in 2024 as soon as possible.¹

Introduction

Aristotle is a broadband internet service provider that offers broadband connectivity over a hybrid fiber/fixed wireless network. It also offers email, hosting, and voice over IP. It is a registered iVOIP provider in Missouri and has been designated as an ETC by the Commission. It has similar authority in Illinois, Arkansas, Oklahoma, and Mississippi.²

Aristotle has been certified under rule 54.314 to receive CAF II funds in prior years in all five states through 2023 and has been certified for 2024 in the four other states, but not yet in Missouri. In Missouri, such certification applies to CAF II funds awarded to Aristotle for a small number of census blocks in Howell, Ozark, and Oregon counties along the Arkansas border.³

¹ Ex 200, Bowles Direct, p. 7 lines 6-13.

² Ex 200 Bowles Direct, p. 3 lines 5-23; p. 4 lines 7-11; p. 4 line 22 – p 5 line 3.

³ Ex 200 Bowles Direct, p. 3 line 20 – p 4 line 6; p 4 line 22 – p 5 line 17; p 7 lines 1-5

The total award for these Missouri census blocks was just over \$3,000,000 and has been paid in monthly installments of just over \$25,000 per month since July 2019, to continue until July 2029 assuming annual certification by the Commission under rule 54.314.⁴

1. Should the Commission certify Aristotle under rule 47 CFR 54.314 to receive federal Connect America Fund Phase II funding for 2024?

a. Is Aristotle using federal Connect American Fund Phase II support for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

The uncontradicted, unrebutted, and unimpeached evidence shows that without question the answer is: **Yes**, the Commission should certify Aristotle under rule 47 CFR 54.314 to receive federal CAF II funding for 2024, because Aristotle has used **ALL** and will continue to use **ALL** such support funds solely for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Because the certification will be late, funding will be reduced. However, certification remains critical to the federal and state mission of extending broadband to unserved and underserved areas.

Aristotle presented the pre-filed direct and live rebuttal testimony of its CEO Elizabeth Bowles. Her credentials are impeccable⁵, and her testimony was clear and to the point.⁶

HC Schedule 5 to Ms. Bowles direct testimony explains in detail how Aristotle has used and will use **ALL** CAF II funds received through the end of this year. She also

⁴ Ex 200 Bowles Direct p. 4 lines 1-6, lines 12-21; Bowles Live Testimony Tr p. 30 line 23 - p. 31 line 15; p. 59 line 16 – p. 60 line 6.

⁵ Ex 200 Bowles Direct p. 2 line 6- p. 3 line 4; Bowles Live Testimony p. 25 line 24 – p 26 line 23.

⁶ Ex 200 Bowles Direct, Bowles Live Testimony.

explained the categories of expenditure in greater depth during the hearing. She verified the propriety of the expenditures. She confirmed Aristotle has and will spend its **own funds** in addition to using **ALL** of the CAF II support in meeting the applicable FCC service availability milestones. Aristotle has not sat idly by accumulating funds, and it has sought to avoid waste and spend funds wisely. There is no contrary evidence, just unfounded and erroneous opinion.⁷

Ms. Bowles further confirmed that the substantial amount of equipment that has been purchased as described on HC Schedule 5 is segregated for use solely in Missouri and can **only** be used in Missouri to serve the awarded census blocks. Aristotle cannot use this equipment in other states.⁸

That should be the end of the analysis. The Commission did not closely examine any of the other 64 or so ETCs that it certified under rule 54.314 on September 21 to continue to receive federal funds, relying solely on Staff recommendation. It should feel more confident about certifying Aristotle than any other ETC after having held the hearing in this matter (perhaps the first such hearing ever held).⁹

The faster the Commission certifies Aristotle, the better for the residents of the awarded census blocks in Howell, Ozark and Oregon counties. By the end of the year, \$75,000 in support will have been lost forever (nearing the amount needed to serve 100

⁷ Ex 200, Bowles Direct p. 7 lines 14-23; p. 9 lines 14-16; p 11 lines 5-10; Ex 200 HC Sched 5; Bowles Live Testimony. p 28 line 3 -p. 30 line 22; p. 32 lines 8-17; p. 35 lines 17-23; p. 42 line 6 -p. 44 line 9; p. 56 lines 9- 24; p. 75 line 24 -p. 80, line 21; p. 102 line 25 – p 104 line 3.

⁸ Bowles Live Testimony, p. 42 line 25 – p. 44 line 9.

⁹ Ex 200 Bowles Direct p. 5, line 18 – p. 6, line 13; Bowles Live Testimony, Tr. p. 33 line 14 – p. 35 line 11.

locations/customers). But immediate certification will preserve the rest of the funds for 2024.¹⁰

This case is not about Aristotle meeting the FCC's milestones, but Aristotle has met them and will continue to meet them. And in contrast to the permanent loss of funds resulting from lack of 54.314 certification, under rule 47 CFR 54.320 an ETC that does not meet a milestone does not lose support funds forever; rather, portions are held back until the milestone is met.¹¹

This case is not about the USAC audit that Staff requested. Aristotle has fully cooperated with that audit, and there is no evidence to suggest, nor reason to think there will be a negative outcome. Aristotle has been certified under 54.314 in its other four states of operation and should be in Missouri.¹²

This case is not about the means by which Aristotle has chosen to implement service, nor about its change in plans in terms of deferring tower construction. The FCC does not concern itself with methods such as timing of tower construction, it just looks at service speeds and milestones. Aristotle is meeting its milestones as stated above, and service speed tests have repeatedly been successful.¹³

The case is not about the number of Missouri customers Aristotle has or Aristotle's marketing. The milestones under rule 54.320 do not address number of customers, and rule 54.314 does not address marketing. Further, Aristotle has been steadily increasing its

¹⁰ Ex 200 Bowles Direct p 4, lines 12 – 21; p. 6, lines 14-23; Bowles Live Testimony, p. 30 line 23 – p. 33 line 13; p. 59 line 16 – p. 60 line 6. Loss of all CAF II funds for Missouri would equal \$300,000, the cost of constructing a tower. Bowles Live Testimony, Tr. p. 40 lines 12-16.

¹¹ Ex 200 Bowles Direct at p. 8 line 15 -p. 9, line 3 & lines 10-13; p. 11, lines 11- 16; Bowles Live Testimony, Tr. p. 47 line 7 – p. 50 line 13; p. 83 line 7 – p. 84 line 5; p. 92 lines 4-23; p. 96 line 14 – p. 98 line 17.

¹² Ex 200 Bowles Direct p. 9, lines 4-9; Bowles Live Testimony, p.53 line 3 – p. 54 line 1.

¹³ Ex 200 Bowles Direct p. 8, lines 8 – 14; Bowles Live Testimony, Tr. p. 36 line 25 – p. 41 line 15; p. 46 lines 4 – 13; p. 70 line 17 – p. 71 line 7; p. 95, lines 13- 21.

marketing efforts (as it became apparent that the planned transfer was not going to occur as soon as anticipated) while accounting for the idiosyncrasies of the involved census blocks. Leads have been generated, service can be ordered online, and Aristotle is ready to install equipment (which it already has in stock) in a timely manner.¹⁴

This case is not about Aristotle's plan to seek a transfer of the few awarded Missouri census blocks (and only those blocks) with the equipment purchased and support funds to a provider with larger Missouri operations to serve the public more efficiently. Regardless of such plan, Aristotle has spent CAF II funds properly, has met its milestones, is stepping up marketing, and will continue to do all of these things unless and until the transfer is approved. But neither Aristotle nor the transferee will be able to recover the funds lost for use in serving the public, due to late certification of Aristotle.¹⁵

The Commission has one charge under rule 54.314; it concerns certification of proper use of CAF II funds. The evidence confirms proper use of **ALL** of the funds by Aristotle, and the Commission should certify Aristotle to continue to receive such funds. Prompt action will best serve the purposes of CAF II¹⁶ and the Missourians in the census blocks in Howell, Ozark, and Oregon counties by making sure, to the extent now possible, that federal support funds can be used for the benefit of those consumers.¹⁷

WHEREFORE, Aristotle requests that the Commission certify it for 2024 under 47 CFR 54.314 as soon as possible.

¹⁴ Bowles Live Testimony, Tr p. 35 line 16 – p. 38, line 7; p. 42 lines 10- 21; p. 44 line 10 - p. 45 line, 21; p. 119 line 19 -p. 120 line 1.

¹⁵ Ex 200 Bowles Direct p 8 line 17 – p. 11 line 4; Bowles Live Testimony Tr p. 52 line 3 – p. 57 line 6; p. 60 line 20 – p. 61 line 15; p. 72 line 12 -p. 74 line 4; p. 98 lines 6 - 17.

¹⁶ Ex 200, Bowles Direct p. 3 lines 20-23 and Sched 1; Bowles Live Testimony, Tr. p. 105 line 6 – p. 106 line 12.

¹⁷ Ex 200 Bowles Direct p. 7 lines 6-13; p. 11, lines 11 – 16; Bowles Live Testimony, Tr. p. 60 lines 16 – 19; p. 61 line 22 – p. 62 line 2.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via email this 26th day of December, 2023 on all counsel of record.

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