

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90

**COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Public Notice issued by the Federal Communications Commission (“Commission”) in the above-captioned proceedings.² The Public Notice seeks comment on the Alaska Telephone Association (“ATA”) Petition for Clarification and Waiver (“Petition”)³ of certain of the Commission’s Lifeline Universal Service Fund (“USF”) program rules.

The Commission should issue the clarification and waiver of the agency’s Lifeline rules as requested by ATA. The relief as requested by ATA would ensure that low-income consumers in remote Alaska are not cut off from the many benefits of an Internet connection. As ATA

¹ NTCA represents nearly 850 small rural incumbent local exchange carriers (“RLECs”). All of NTCA’s members provide quality voice and broadband services, and many of its members provide wireless, cable, satellite, and long distance and other advanced communications services to their rural communities.

² *Wireline Competition Bureau Seeks Comment on Alaska Telephone Association Petition for Clarification and Waiver of the Lifeline Minimum Service Standards*, WC Docket Nos. 11-42, 09-197, and 10-90, DA 18-34 (rel. Jan. 11, 2018) (“*Public Notice*”).

³ *Alaska Telephone Association Petition for Clarification and Waiver of Lifeline Minimum Service Standards*, WC Docket Nos. 11-42, 09-197, and 10-90 (fil. Dec. 4, 2017) (“*ATA Petition*”).

notes in its Petition,⁴ the changes made in 2016 to the Lifeline program to support low-income consumers' access to the Internet may, if applied strictly and in a "one-size-fits-all" manner, leave thousands of remote Alaskans disconnected from the increasingly online world in which we live today. Because remote Alaska presents a "special circumstance" requiring a unique response, and because grant of the requested relief would further the agency's broadband adoption goals and therefore the public interest, the ATA Petition is consistent with Section 1.3 of the Commission's rules and should therefore be granted immediately.⁵

At bottom, the Petition rests on the reality that remote Alaska presents a unique situation that merits unique treatment under the Commission's broader broadband policies. Indeed, this Commission has already recognized such unique circumstances in adopting the "Alaska Plan," which tailored the High Cost USF program to address the challenges faced by rate-of-return ("RoR") providers in that state.⁶ As the Commission stated in the *Alaska Plan Order*, RoR carriers in that state "face unique circumstances including Alaska's large size, varied terrain, harsh climate, isolated populations, shortened construction season, and lack of access to infrastructure that make it challenging to deploy voice and broadband-capable networks."⁷

⁴ *Id.*, p. 5.

⁵ 47 C.F.R. § 1.3. Section 1.3 of the Commission's rules states that the agency's "rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown." The "good cause shown" standard has been interpreted to grant the Commission discretion to waive application of its rules in situations where strict compliance would not be in the public interest. *Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular). Generally, waiver of the Commission's rules is granted when both (i) special circumstances warrant a deviation from the general rule and (ii) such deviation will serve the public interest. *Network IP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

⁶ Connect America Fund, WC Docket No. 10-90, Universal Service Reform – Mobility Fund, WT Docket No. 10-208, Connect America Fund – Alaska Plan, WC Docket No. 16-271, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-115 (rel. Aug. 31, 2016) ("*Alaska Plan Order*").

⁷ *Id.*, ¶ 5.

Based on those unique circumstances, the Commission felt that a “one-size-fits-all” approach to the distribution of High Cost USF support would not be a benefit to Alaskan consumers and thus the agency acted accordingly.

Similar logic applies here and supports approval of the *ATA Petition*. Simply put, the same sort of differences that compelled a unique approach to High Cost USF funding merit a tailored approach here in the Lifeline context as well. As the Commission noted in adopting the Alaska Plan—and as ATA documents in its Petition⁸—a large number of rural consumers in remote Alaska lack access to the levels of fixed and mobile broadband eligible for Lifeline support. With the commitment of the Commission via the Alaska Plan—as well as the strong commitment to remote Alaska possessed by the carriers serving those areas—efforts are underway to overcome this divide. Yet, strict application of the Commission’s Lifeline rules will do a serious disservice to low-income consumers in areas where service meeting the program is not yet available. Indeed, strict application of the program’s rules will severely undermine the ultimate goal of promoting broadband adoption amongst a population that falls far behind the rest of the nation in that important metric.⁹

On other hand, if granted, the ATA Petition would further those broadband adoption goals by enabling thousands of low-income consumers living in remote Alaska the opportunity to obtain an Internet connection that may otherwise be beyond their reach. Such a connection

⁸ *ATA Petition*, pp. 5-7.

⁹ *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“*2016 Lifeline Reform Order*”).

can provide access to employers, friends and family and markets for goods and services that can improve lives and produce economic benefits for the entire community.

To be clear, NTCA supports minimum service standards throughout the USF programs, as the Commission should at every turn strive for faithful adherence to the “reasonable comparability” of service and “preservation and advancement” of universal service mandates found in Section 254. The Commission should also strive to ensure that low-income consumers—and any other user for whom USF support is intended to provide a benefit—are not provided with “second-tier” (or worse) service.

That said, two countervailing concerns should take priority in this narrow circumstance, and those are the broadband adoption goals that prompted the transformation of the Lifeline program and the need to address the unique nature of Alaska as referenced above. Advancing these two important concerns requires application of the Lifeline program’s minimum speed standards in a manner that accounts for the realities of network availability in remote Alaska. Just like the “facts on the ground” today in Alaska informed the Commission’s High Cost support rules for that state, so too should those same facts also inform how the Commission structures, in turn, its Lifeline program in this instance. Grant of the relief as requested by ATA would tailor the Lifeline program rules in manner similar to the function of the Alaska Plan and in doing so it would prevent a number of low-income consumers from having no choice whatsoever among much-needed communications “lifelines” while the High Cost support made available via the Alaska Plan improves the quality and reach of fixed and mobile networks.

For the reasons discussed above, the Commission should grant the clarification and waiver of the agency’s Lifeline rules as requested by ATA.

Respectfully submitted,



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February 12, 2018