

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

Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Rural Broadband Experiments)	WC Docket No. 14-259

**EMERGENCY PETITION OF
NTCA–THE RURAL BROADBAND ASSOCIATION FOR
LIMITED WAIVER OF RURAL BROADBAND EXPERIMENT
LETTER OF CREDIT REQUIREMENT**

NTCA–The Rural Broadband Association (“NTCA”) hereby petitions on an emergency basis pursuant to Sections 1.3 and 1.41 of the rules of the Federal Communications Commission (the “Commission”), on behalf of its members and similarly situated entities, for a limited waiver of the requirement that recipients of Rural Broadband Experiment (“RBE”) support obtain a letter of credit (“LoC”) from a “top 100” bank.¹ For the reasons explained herein, good cause exists to grant relief with respect to this requirement, such that applicants slated to obtain RBE support would be permitted to obtain a LoC from any federally-insured U.S. bank. For purposes of clarification, this petition should be viewed as complementary to, and generally supportive of, petitions submitted previously by the National Rural Utilities Cooperative Finance Corporation (“CFC”) and the Rural Telephone Finance Cooperative (“RTFC”)² and the Alliance of Rural Broadband Applicants (the “Alliance”) seeking other relief with respect to related LoC requirements.³

¹ *Connect America Fund*, WC Docket No. 10-90, *ETC Annual Reports and Certifications*, WC Docket No. 14-58, Report and Order and Further Notice of Proposed Rulemaking (rel. July 14, 2014) (“RBE Order”), at ¶¶ 54-61.

² CFC/RTFC Petition for Waiver, WC Docket Nos. 10-90 and 14-58 (filed Jan. 21, 2015).

³ Alliance Petition for Waiver, WC Docket Nos. 10-90 and 14-58 (filed Jan. 27, 2015).

In the *RBE Order*, the Commission required recipients of RBE support to provide a LoC obtained from: (1) one of “the 100 largest banks in the U.S.” as long as that bank is insured by the Federal Deposit Insurance Corporation; (2) one of “the 100 largest non-U.S. banks;” or (3) an agricultural credit bank in the United States that serve rural utilities and is a member of the Farm Credit System.⁴ The Commission justified this requirement as “an effective means of securing our financial commitment to provide Connect America support.”⁵

Without waiving any future position it may take with respect to potential LoC requirements in the context of Connect America Fund Phase II processes or other contexts, NTCA does not object in this petition specifically to the basic requirement that RBE winners supply LoCs – although it shares the concerns that have been raised by other petitioners with respect to the specific parameters of the LoCs established in the *RBE Order*. By this petition, however, NTCA respectfully requests that the Commission grant a limited waiver with respect to the kind of banks from which a LoC must be obtained for the experiments. Specifically, and once again without waiving its position as to future advocacy, NTCA asks that the Commission deem acceptable for RBE purposes a LoC that otherwise meets the applicable standards set forth in the *RBE Order* (as such may be modified in response to the other pending waiver petitions), as long as that LoC is obtained from any federally-insured U.S. bank.

There is good cause to grant this limited waiver on an expedited basis. In discussions with NTCA members whose affiliates have been named provisional winners of RBE support and other similarly situated entities, it has become clear that the requirement to obtain LoCs from “top 100 banks” is overly burdensome and impractical, if not impossible. Particularly for smaller entities

⁴ *RBE Order*, at ¶¶ 59-60.

⁵ *Id.* at ¶ 56.

obtaining relatively smaller awards (*e.g.*, less than \$20 million), the cost of obtaining a LoC from a “top 100 bank” may be prohibitive and all but defeat the rationale for obtaining support. Indeed, if a carrier had on-hand the kind of money needed to obtain a LoC from “top 100 banks” with whom it has no prior relationships or accounts, the carrier would likely not need support at all with respect to the project for which funding is sought. As small businesses that typically have few, if any, pre-existing relationships of any significance with “top 100” commercial banking institutions, a requirement that ties the availability of universal service support to credit from the CitiBanks and Banks of America of the world is effectively a bar to participation in the RBEs for the locally-owned and locally-operated entities that are otherwise best positioned and most committed to deliver on the promise of universal service in rural areas.⁶

Grant of the instant petition would not undermine the Commission’s interest in ensuring integrity in the use of universal service fund resources. NTCA shares this interest and has, time and again, urged the Commission to take better account of more long-term, demonstrated performance in terms of network investment and customer service in rural, high-cost areas from those obtaining universal service support. Grant of this petition would simply recognize, however, that sufficient protection of such resources can still be obtained without having the benefit of obtaining such support outweighed by the costs of doing so. There are many reliable independent community banks, credit unions, and other financial institutions that can provide a sound level of

⁶ It is also worth noting that many rural rate-of-return-regulated local exchange carriers have a long history of operating reliably within the universal service system as overseen by the Universal Service Administrative Company (“USAC”), and that they have done (in the words of federal and state regulators) a “commendable job” in leveraging universal service resources for the benefit of the communities they serve. *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 07J-4, at ¶ 39 (2007). Entities such as these proven solutions providers should not be deterred from participating in universal service programs, and if anything, the track record of providers such as these – both in operating in hard-to-serve areas and in experience with USAC oversight – provide good cause for modified LoC requirements as to such providers in particular.

backing of RBE award winners and reassurance to the Commission without being Chase or Capital One. By contrast, if the Commission denies this petition, it will have all but signaled that the RBEs – and perhaps Connect America Fund Phase II – are closed to small businesses and open only to those big service providers that happen to maintain accounts with big banks.

For the foregoing reason, NTCA respectfully requests expeditious consideration and grant of the limited waiver sought herein.

Respectfully Submitted,



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