

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	

**EMERGENCY EXPEDITED ATTENTION REQUESTED**

**PETITION FOR WAIVER OF TWIN LAKES TELEPHONE COOPERATIVE  
CORPORATION**

Twin Lakes Telephone Cooperative Corporation (“Twin Lakes” or the “Cooperative”) pursuant to Section 1.3 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules<sup>1</sup> requests limited waiver of the January 2, 2015 date specified in Section

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<sup>1</sup> 47 C.F.R. §1.3

54.313(h)(2) for which local exchange carriers subject to Section 54.318<sup>2</sup> (known as the “rate floor benchmark rule”) were to file an updated report if they had rates for residential local service plus state fees which were below \$16.00 as of June 1, 2014, but had subsequently raised rates such that the rates plus fees were \$16.00 or above by December 1, 2014. As explained herein, the Commission has good cause to grant this petition and waiver of this deadline is in the public interest.

### **I. Background**

Twin Lakes is a rate-of-return incumbent local exchange carrier that provides service in the state of Tennessee and that receives high cost loop support (“HCLS”). Accordingly, Twin Lakes is subject to the rate floor benchmark rule which specifies that recipients of HCLS must meet a set benchmark for their local rates plus state regulated rates (state subscriber line charges, state universal service fund and mandatory EAS charges). Carriers who do not meet these local rate floor benchmarks face reduction of HCLS on a dollar-for-dollar basis to the extent that a carrier’s local rates plus state regulated rates do not meet the rate floor benchmark.<sup>3</sup> Section 54.313(h)(1) specifies that by July 1 each year, carriers subject to the rate floor benchmark rule must report rates plus state fees that are below the rate floor as of June 1 each year as well as the number of lines for each rate specified.<sup>4</sup>

On June 10, 2014, the FCC released an Order delaying implementation of the rate floor rule.<sup>5</sup> Under this approach, support reductions associated with the rate floor of \$20.46 are

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<sup>2</sup> See 47 C.F.R. § 54.318.

<sup>3</sup> See 47 C.F.R. § 54.318(b).

<sup>4</sup> See 47 C.F.R. § 54.313(h)(1).

<sup>5</sup> See *Connect America Fund; Universal Service Reform – Mobility Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime*, WC Docket Nos. 10-90, 14-58, 07-135; WT Docket No. 10-208; CC Docket No. 01-92, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (rel. June 10, 2014) at ¶ 80.

phased-in over a multi-year period beginning with deferring any support reductions for lines that have rates of \$14 or greater until January 2, 2015. Beginning January 2, 2015 through June 30, 2016, the support reductions are waived to the extent reported lines are at or above \$16. Rates must be in effect by December 1, 2014. Pursuant to Section 54.313(h)(2)<sup>6</sup>, carriers whose rates plus state fees were below \$16 as of June 1, 2014 but subsequently raised rates such that rates and fees were at or above \$16 by December 1, 2014 have the opportunity to file an update by January 2 of each year.

In June 2014, Twin Lakes complied with the annual rate floor filing requirement established in Section 54.313(h)(1) and submitted data demonstrating that its local rates plus state fees met the \$14 benchmark. In anticipation of the future increase of the benchmark, the Cooperative Board, after lengthy discussions regarding the strong concerns over raising local rates, unanimously approved and adopted a resolution to increase monthly rates charged by the Cooperative for telephone service for residential and business lines by \$2.00. Effective December 1, 2014, Twin Lakes had raised its rates to \$16.00. However, due to an inadvertent oversight, Twin Lakes did not file an updated rate floor report by the January 2, 2015 deadline specified in Section 54.313(h)(2).

The Cooperative did not become aware of the oversight until March 10, 2015 when Cooperative officers reviewed the Universal Service Administrative Company (“USAC”) disbursement statement and realized a \$48,100 reduction for “Current Period Rate Floor”. Twin Lakes took immediate steps to determine the reason for this reduction in HCLS and sought guidance on how to rectify the situation so that the Cooperative will not have any subsequent monthly reductions in support. Twin Lakes hereby respectfully requests that the Commission

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<sup>6</sup> 47 C.F.R. § 54.313(h)(2).

grant Twin Lakes a limited waiver of the January 2, 2015 deadline to allow Twin Lakes to submit its updated report. A copy of the rate floor submission that Twin Lakes will file with NECA and/or USAC once this waiver is granted is attached (Exhibit A). Twin Lakes further requests the Commission to direct USAC to disburse the amount scheduled for reduction in HCLS for the period January 1, 2015 through June 30, 2015. At the very least, the Commission should grant this waiver and direct USAC to accept its rate floor data effective March 27, 2015, the date this waiver was filed, impacting payments on a going forward basis.

## **II. Grant of this Waiver is Warranted**

Generally, the Commission's rules may be waived for good cause shown.<sup>7</sup> Furthermore, the Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>8</sup> As demonstrated herein, grant of this petition is warranted because the particular facts make strict compliance inconsistent with the public interest. Indeed, the public interest would be served by allowing Twin Lakes to submit its updated report and mitigate the amount of reduction in HCLS.

Twin Lakes took the appropriate steps to raise rates and implemented the rate increase effective on the December 1, 2014 deadline. Accordingly, the purpose of the rate floor rule has been met.<sup>9</sup> As the FCC recognized when it adopted the mid-year rate floor update, "where

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<sup>7</sup> 47 C.F.R. § 1.3.

<sup>8</sup> *Northeast Cellular Telephone co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>9</sup> *See Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order and/or FNPRM*); *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10<sup>th</sup> Cir. argued Nov. 19, 2013) at ¶ 237 ("It is inappropriate to provide federal high-cost support to subsidize local rates beyond what is necessary to ensure reasonable comparability").

carriers have raised their rates, it is appropriate for us to take that into account.”<sup>10</sup> However, absent grant of this waiver petition, the FCC will ignore this \$2 rate increase and reduce the HCLS received by Twin Lakes as though the Cooperative’s rates plus state fees remain at \$14. Twin Lakes will not have another opportunity to report rate floor data until July 1, 2015. Accordingly, the Cooperative would have a reduction in the amount of HCLS of \$288,600 if Twin Lakes’ rate floor data effective December 1, 2014 is not accepted as timely filed by the January 2, 2015 filing deadline. This reduction in HCLS would negatively impact the ability of Twin Lakes to continue to provide the high level of quality of services to its customers and would be especially adverse to the public interest given that customers’ rates were increased significantly to ensure that such reductions in HCLS would not occur.

Twin Lakes furthermore requests expedited attention to this matter, as it “do[es] not involve complicated and/or controversial issues,”<sup>11</sup> that would necessitate the Commission to expend considerable time and resources to resolve. Twin Lakes very simply requests that its update to its rate floor data be considered timely filed and that the Cooperative not endure any further reductions in HCLS as a result of an administrative oversight.

### **III. Conclusion**

Twin Lakes respectfully requests the Commission grant the Cooperative a limited waiver of the January 2, 2015 deadline specified in Section 54.313(h)(2) so that Twin Lakes may submit its updated report. Limited waiver of this deadline is a one-time necessity for Twin Lakes to

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<sup>10</sup> See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Third Order on Reconsideration (rel. May 14, 2012) at ¶ 20.

<sup>11</sup> See *Streamlined Filings for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*; CC Docket No. 96-45, WC Docket Nos. 02-6, 02-60, 06-122, 08-71, 10-90, 11-42, 14-58, Public Notice (rel. Sept. 15, 2014).

mitigate the amount of reduction in HCLS due to an administrative oversight. Twin Lakes further requests the Commission to direct NECA and/or USAC to accept its rate floor data certification (Exhibit A) as timely filed and to direct USAC to disburse the amount scheduled for reduction in HCLS as requested herein.

Respectfully submitted,

/s/ Jonathan West

Jonathan West  
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Filed March 27, 2015

Attachment

**RATE FLOOR DATA COLLECTION - OMB Control Number 3060-0986**

**Block 1 - Contact Information**

ROW #	DATA ELEMENT	FORMAT OF REQUESTED DATA	RESPONSE
1	Carrier Study Area Code	6 numeric digits	<b>290579</b>
2	Carrier Study Area Name	alpha characters	TWIN LAKES TEL. COOP. CORP
3	Service Provider Identification Number	9 numeric digits	143001640
4	Residential Local Service Charge Effective Date	mm/dd/yyyy	12/01/14
5	Contact Name	alpha characters	Betcher, Bridget
6	Contact Telephone Number (include area code)	9 numeric digits	931-268-2151
7	Sheet number	numeric digit(s)	
8	Total Number of Sheets	numeric digit(s)	

**Block 2 - Residential Local Service Rates, Fees, and Line Counts**

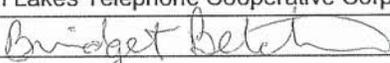
	Column 1 Residential Local Service Charge	Column 2 State Subscriber Line Charge	Column 3 State Universal Service Fee	Column 4 Mandatory Extended Area Service Charge	Column 5 Loops
9	16.00				23898

Exhibit A

Rate Floor Template

Certification of Officer as to the Accuracy of the Data Reported for the Rate Floor Data

I certify that I am an officer of the reporting carrier; my responsibilities include ensuring the accuracy of the actual rate floor data reported ; and, to the best of my knowledge, the information reported on this form is accurate.

Name of Reporting Carrier				Twin Lakes Telephone Cooperative Corporation			
Signature of authorized officer					Date	03/27/2015	
Printed name of authorized officer			Bridget Betcher				
Title or position of authorized officer			Chief Financial Officer				
Telephone number of authorized officer: (931) 268-2151, ext.							
Study Area Code of Reporting Carrier		290579		Filing Due Date for this form (mm/dd/yyyy)		01/02/2015	