

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	
Sandwich Isles Communications, Inc.)	
Petition for Waiver of the Commission’s Rules)	
Implementing Reform of Universal Service)	
Support and Intercarrier Compensation for)	
Rate-of-Return Carriers)	

**REPLY COMMENTS OF
ALEXICON TELECOMMUNICATIONS CONSULTING**

INTRODUCTION

Alexicon Telecommunications Consulting (Alexicon) hereby submits its Reply Comments to the Federal Communications Commission (Commission) in response to the Commission's request for comments on the Petition for Waiver of 47 CFR 54.302 (Petition) filed by Sandwich Isles Communications, Inc. (SIC).¹

Alexicon provides professional management, financial and regulatory services to a variety of small rate-of-return Incumbent Local Exchange Carriers ("ILECs") who serve diverse geographical areas characterized by rural, insular or Native American Tribal Lands. These ILECs, similar to most other small rate-of-return regulated ILECs, currently provide a wide range of technologically advanced services to their customers. These companies, through participation in various State and Federal high cost funding programs, and with their continued investment in network infrastructure, are providing customers in rural, insular and Tribal areas with services equal to or greater than urban areas, and at comparable pricing. Furthermore, these ILECs have been committed to providing their customers with innovative solutions, by adapting technologies that fit rural America, including Broadband and IP-enabled services. Alexicon is very active with Tribally-owned providers and is knowledgeable about the challenges and special circumstances under which communications services are provided to Tribal and Native areas.

SUMMARY

Alexicon supports SIC's Petition in that it involves important services being provided to Tribal lands and recommends the Commission grant it expeditiously. SIC has satisfied the Commission's newly-adopted and considerably more stringent standards for such requests, and has demonstrated that the Commission's rule implementing a per-line cap on total universal service support would be extremely detrimental to SIC's operations and customers. In this regard, Alexicon disagrees with the assertions made by USTelecom implying that SIC has not presented sufficient reason for the Commission to grant its waiver.²

¹ Sandwich Isles Communications, Inc. Petition for Waiver of Section 54.302 of the Commission's Rules, WC Docket No. 10-90 and WT Docket No. 10-208 (filed December 30, 2011)

² See Comments of United States Telecom Association at 2

I. SIC Demonstrated the Need for Support Above the Amount Allowed by 54.302

SIC requested a waiver of 47 CFR 54.302, which the Commission adopted as part of its overall transformation of the Intercarrier Compensation and Universal Service rules.³ SIC claims the imposition of the \$250 monthly and \$3,000 annual per line cap on total universal service support poses a “severe threat to the continued availability of wireline voice as well as broadband service for residents and businesses located on HHL [Hawaiian Home Lands].”⁴ SIC’s arguments fall within the parameters established by the Commission for such waivers:

- Waiver would be warranted where an ETC can demonstrate that, without additional universal service funding, its support would not be “sufficient to achieve the purposes of [section 254 of the Act]”⁵
- We envision granting relief only in those circumstances in which the petitioner can demonstrate that the reduction in existing high-cost support would put consumers at risk of losing voice services, with no alternative terrestrial providers available to provide voice telephony service using the same or other technologies that provide the functionalities required for supported voice service.⁶

The Petition describes the results of applying Section 54.302 to SIC, which include “a severe threat to the continued availability of wireline voice service as well as broadband service for residents and businesses located on HHL”⁷; “the beneficiaries of the trust will be without the communications services necessary to make development, resettlement, and rehabilitation of the trust lands possible”⁸; and “residents of the Hawaiian Homelands will no longer be assured of continuation of voice and broadband service.”⁹ When the fact that HHL are considered Tribal Areas¹⁰ is combined with the facts contained in the Petition regarding the unusually high costs

³ Report and Order and Further Notice of Proposed Rulemaking 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; and Universal Service Reform – Mobility Fund, WT Docket No. 10-208, released November 18, 2011. (*ICC/USF Order*)

⁴ Petition at 2

⁵ *ICC/USF Order* at 540

⁶ *Id.*

⁷ Petition at 2

⁸ *Id.*

⁹ Petition at 3

¹⁰ *ICC/USF Order*, Footnote 197

involved with serving the HHL, the only conclusion that can be drawn is SIC's waiver must be granted in order to preserve the important work it has started, and to allow these vital services to continue into the future.

The amount of support SIC claims is necessary to serve the HHL is of secondary importance to the responsibility it has to bring services to these historically underserved and un-served areas. SIC's petition spells out the reasons it believes the current level of support is necessary, and has met the Commission's criteria as adopted in the *ICC/USF Order*.¹¹ However, the Commission must also take into account the fact that SIC was formed and is providing service pursuant to state, federal, and local approval, as well as state and local encouragement.¹² SIC undertook the substantial task of serving HHL under Commission rules that, at the time, provided for the level of universal service support that is now faces substantially losing. This will certainly not result in the accomplishment of the Commission's goals of universal availability of voice and broadband services.

II. The Commission Must Consider the Specific Role SIC Plays in the Economic Well-Being of HHL Residents

As the Commission correctly noted, certain study areas may exhibit high costs "because states sought to ensure a provider would serve a remote area."¹³ The Commission had also previously recognized "the unique geographic conditions in Hawaii, [and] the special role that Sandwich Isles plays in providing telecommunications services to rural areas of Hawaii..."¹⁴ Based on these factors, the Commission should look beyond the reforms adopted to eliminate alleged waste and inefficiency existing in the USF, and carefully consider the goals and objectives that exist to ensure the economic viability of Tribal areas, including HHL.

¹¹ *ICC/USF Order* at 539-544

¹² Petition at iii (SIC granted a "benefit" license by the Department of Hawaiian Homelands), v (SIC was formed in 1995 for the purpose of modernizing Hawaii's communications infrastructure with full support of the Hawaiian delegation and obtain RUS financing to do so), 11 (Hawaii PUC issued a Certificate of Authority to SIC); See also *Sandwich Isles Communications, Inc. Petition for Declaratory Ruling*, WC Docket No. 09-133, Declaratory Ruling (adopted September 29, 2010) (*Declaratory Ruling*) at 3 (discussing various approvals SIC received from the Commission)

¹³ *ICC/USF Order* at 278

¹⁴ *Declaratory Ruling* at 17

SIC's Petition describes the multitude of legislative goals and objectives that exist and impact provision of communications services to HHL. It is clear that, in the case of the *ICC/USF Order*, some of these vital goals and objectives are threatened. It is further clear that the Commission recognized situations such as these when it adopted its new, and onerous, waiver process. The Commission must now move carefully forward, and recognize the importance of SIC's waiver in light of the fragile state of communications services on the HHL.

CONCLUSION

Alexicon recommends the Commission move expeditiously and grant SIC's Petition for Waiver of Section 54.302 of the Commission's rules. The threats to the continued provision and advancement of universal service to residents and businesses located on HHL demand a swift determination so that SIC can continue its vital work in providing HHL with service.

Respectfully Submitted,

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