

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

In the Matter of)	
)	
Allband Communications Cooperative)	WC Docket No. 10-90
Petition For Waiver OF Certain High-)	WT Docket No. 10-208
cost Universal Service Rules)	

**COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association¹ (“NTCA”) submits these comments in response to the Wireline Competition Bureau’s Public Notice² seeking comments on Allband Communications Cooperative’s (“Allband”) petition for waiver (“Petition”) of portions of the Commission’s recently adopted universal service and intercarrier compensation rules. Specifically, Allband requests that the Commission waive the implementation of Part 54.302 regarding the total limit on universal service support, and of the limits on reimbursable capital and operating costs applied to High

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 600 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities. Allband Communications Cooperative is a NTCA member.

² *Wireline Competition Bureau Seeks Comments on Allband Communications Cooperative Petition for Waiver of Certain High-cost Universal Service Rules*, WC Docket No. 10-90, WT 10-208, DA 12-204, Public Notice (rel. Feb. 13, 2012).

Cost Loop Support (“HCLS”) and Interstate Common Line Support (“ICLS”). NTCA unequivocally supports Allband’s waiver request to prevent immediate and irrevocable harm to the telephone company and the rural consumers it serves. The Petition highlights the difficulty carriers face in staring down the July deadlines with so many implementation and rule development questions still unanswered or unclear. NTCA adheres to the position that providers who serve high-cost areas should receive support sufficient to achieve the purposes of Section 254 of the Communications Act of 1934, as amended.³

I. ALLBAND ESTABLISHES SUFFICIENT GROUNDS FOR WAIVER OF THE RULE LIMITING ANNUAL UNIVERSAL SERVICE SUPPORT TO \$3,000 PER LINE

Allband has sufficiently demonstrated good cause for the Commission to waive Section 54.302 of its rules. The Commission made a waiver process available for circumstances where its new rules would reduce a carrier’s support to a point that it “would not be ‘sufficient to achieve the purposes of [Section 24] of the Act.’”⁴ Allband demonstrates that absent a waiver, it is not financially viable and rural consumers would lose service or incur massive increases in end-user charges.

Formed in 2003, Allband serves a particularly remote and difficult to serve area in the lower peninsula of Michigan. Relying on funding provided by the universal service fund (“USF”) and loans provided by the Rural Utilities Service, Allband was the first provider to offer service to previously unserved customers in four counties covering 177 square miles. Its service territory covers multiple ponds, lakes, streams and wetlands and

³ 47 U.S.C. § 254.

⁴ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 11-161, ¶ 540 (rel. Nov. 18, 2011) .

the territory experiences extreme weather creating a need for lines to be buried during a very brief construction period.

The revenues lost by Allband as a result of the FCC's rule change to cap support at \$3,000 annually are approximately 55% of Allband's total revenues (regulated plus non-regulated.)⁵ The company could not conceivably raise its end user rates and maintain an affordable service. According to the Petition, absent a waiver, Allband's end user customers would pay more than \$480 dollars per month for basic service by 2014.⁶

Allband made a concerted effort to serve a previously unserved portion of the country and now offers modern facilities to its subscribers and the public safety community.⁷ Before Allband began offering service, there was no 911 service and residents would have to drive for miles for emergency services. The \$250 per line monthly support cap is too low given the challenges inherent in Allband's service area, and should be waived.

II. THERE IS GOOD CAUSE TO WAIVE THE UPDATED AND EXTENDED LIMITS ON RECOVERY OF CORPORATE OPERATION EXPENSES

Allband is among the newest companies and only recently built a network in an unserved area. Its facilities are largely undepreciated and the unamortized portion of its loans is large. There is ample reason to believe that application of the Commission's Order would financially destroy the company and there was and remains no way for the company to have anticipated or mitigated its impact. It has a minimal staff who perform

⁵ Allband Petition, pp. 8-9.

⁶ Allband Petition, p. 9.

⁷ Id at 20.

multiple functions and pays them reasonable wages. The board members volunteer their time and receive no compensation.

According to Allband, based on information released by the Commission three months ago, the Commission's retroactively applied expense cap could result in the loss of \$3,259 annual cost per line, or an estimated total annual loss of \$398,435.⁸ That amount can only be estimated given that the complex regression analysis upon which the framework is based is not yet fully fleshed out and is subject to revision as part of the Commission's Further Notice of Proposed Rulemaking.

Allband describes in detail how the Commission's one size fits all order did not and could not address Allband's unique circumstances or the impacts the order would have on it.⁹ Allband points out legal flaws in the Commission's analysis and asserts that application of the Order would cause a prompt default of federal RUS loans.¹⁰

⁸ Allband Petition at 10.

⁹ Allband Petition, pp. 22 – 28.

¹⁰ *Id.* At 19 and 22-28.

III. CONCLUSION

NTCA respectfully requests that the Allband Petition be granted. Circumstances warranting a deviation from the general rules exist. Absent relief, Allband is not financially viable and rural consumers are at risk of losing terrestrial voice and broadband services. Allband has show good cause for relief and grant of the instant petition would be in the public interest.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments on behalf of the National Telecommunications Cooperative Association, WC Docket 10-90 and WT Docket 10-208, DA 12-204 was served this 14th day of March 2012 by electronic filing and e-mail to the persons listed below.

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