

# PUBLIC LAW RESOURCE CENTER PLLC

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April 30, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Room TW-A325  
Washington, DC 20554

**Re: *Request to Expedite Approval of Waiver Petition of Allband Communications Cooperative***

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  
(Order No. FCC 11-161)

Dear Ms. Dortch:

This letter transmits for filing in the above dockets the attached **Request to Expedite Approval of Waiver Petition of Allband Communications Cooperative**.

We are also sending a copy of this letter and the attached pleading via e-mail to Cathy Williams, Nicholas A. Fraser, and PRA@fcc.gov, and to Staff member Amy.Bender@fcc.gov, and to the Commission's copy contractor at fcc@bcpweb.com.

Respectfully submitted,

ALLBAND COMMUNICATIONS COOPERATIVE

By its counsel

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DLK/cd  
Atts

**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
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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Line-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**REQUEST TO EXPEDITE APPROVAL  
OF WAIVER PETITION OF  
ALLBAND COMMUNICATIONS COOPERATIVE**

Allband Communications Cooperative (Allband) files this Request to Expedite Approval of the Waiver Petition filed by Allband on February 6, 2012 in these dockets.<sup>1</sup>

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<sup>1</sup> Allband also filed an extensive supporting appendix with the Waiver Petition, and an errata dated April 17, 2012; Allband filed its February 2012 Waiver Petition as promptly as possible after issuance of the Commission’s Order, given the extensive supporting financial information that was required to be compiled and filed to support its Waiver Petition.

Allband's Waiver Petition (with accompanying Appendix) was filed in accordance with paragraphs 349-544 of the Commission's Order. In this regard, Allband's Waiver Petition (with supporting Appendix):

...clearly demonstrates that good cause exists for exempting the carrier from some or all of those reforms, and that waiver is necessary and in the public interest to ensure that consumers in the area continue to receive voice service.... (paragraph 539).

Allband's Waiver Petition (and Appendix) also meets the requirements stated in paragraph 540 of the Order:

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]."<sup>[FN 903]</sup> In particular, a carrier seeking such waiver must demonstrate that it needs additional support in order for its customers to continue receiving voice service in areas where there is no terrestrial alternative. 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.<sup>[FN 904]</sup> 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 to consumers using the same or other technologies that provide the functionalities required for supported voice service. We will also consider whether the specific reforms would cause a provider to default on existing loans and/or become insolvent.

Allband's Waiver Petition (and Appendix) clearly demonstrates that good cause exists for granting same, and that the grant of Allband's waiver is necessary and in the public interest.

Allband's Waiver Petition establishes that the Commission's Order as applied to Allband will result in Allband facing immediate irreparable harm in the nature of the financial destruction of Allband, and the resulting inability of Allband to pay its Rural Utility Service (RUS) loans, commencing in July 2012.

The approval of Allband's Waiver Petition is also necessary and in the public interest to ensure that customers in the areas served by Allband continue to receive service. Up to this time, Allband, as a non-profit public interest entity and Local Exchange Carrier, has successfully carried out the goals and purposes of the Act, all requirements and obligations of the Universal Service Fund and the RUS loan program, and numerous past orders of this Commission and the MPSC. Any delay or denial of the Waiver Petition would in effect reverse the policy objectives to be achieved by the Universal Service Fund, and would destroy the financial security underlying the federal RUS loans to Allband. Quite simply, the destruction of Allband and its federal loans would be inconsistent with, and counterproductive to, the Commission's goals and objectives as stated in its Order in these dockets. Such action would detract from the provision of modern communication services (including the facilities to provide broadband) in the area served by Allband. At the same time, the overall prospective savings to the Universal Service Fund resulting from the destruction of Allband would be infinitesimal, and may be more than offset by other duplicative and wasteful costs (in addition to the loss to the RUS arising from the ensuing loan defaults).

The Commission no doubt provided for the waiver process in recognition that its sweeping changes to its rules involving the Universal Service Fund and related matters would not sensibly apply in all situations, and that a waiver process would remedy this situation. Allband asserts that compelling grounds exist for the grant of a full waiver to Allband pursuant to the Commission's waiver process. Allband fully relied upon the existing Act, and orders of this Commission and the Michigan Public Service Commission (MPSC), in obtaining licenses and approvals to provide service as a Local Exchange Carrier. Allband complied with all requirements and conditions to obtain federal

loans from the Rural Utility Service (RUS), and thereafter designed and constructed an advanced communications system in areas of four counties of Michigan that never had service of any kind. During this process, all parties, including Allband, the RUS, this Commission, and the MPSC, fully recognized that the stream of revenues provided from the Universal Service Fund comprised the essential primary source of revenues to establish Allband's system, and to provide communications and emergency services to the public. Based upon regulatory approvals and commitments made by this Commission, the MPSC, and the RUS, Allband successfully constructed a network that provides updated and expanded services (capable of providing broadband services) to its service territory, thereby advancing all of the goals and objectives stated in the Commission's Order in these dockets. In contrast, a delay or denial of Allband's Waiver Petition would impose an irrational punitive impact upon Allband and its federal loans and would comprise a retroactive reversal of previous orders and program requirements upon which Allband fully and faithfully relied upon and complied with up to this time.

Allband also asserts that the July 1 start date of the Commission's order, as applied to Allband, constitutes a grave and accelerated obstacle to Allband's existence. Unlike most other entities affected by the Commission's Order, Allband is a recently formed entity that obtained federal loans and commenced construction of a wholly new system on or about 2005, after which it has added customers on a systematic basis. Allband's system costs thus remain high at this point in part because its newly constructed network is large undepreciated, and because the bulk of the principal of its federal loans remains largely unamortized. This is in contrast to other entities that have been in existence for decades, and which may have more financial flexibility to adjust to the requirements of the Commission's Order. The consideration and grant of Allband's Waiver Petition on a prompt basis is thus critical at this time.

Allband respectfully requests the Commission (or its delegated authorized Staff) to promptly grant Allband's Waiver Petition. Allband requests such further and consistent relief that is lawful and reasonable.

Respectfully submitted,

ALLBAND COMMUNICATIONS COOPERATIVE

By Its Counsel:

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Dated: April 30, 2012