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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90

REPLY TO OPPOSITION BY
THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES,
THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION AND THE WESTERN TELECOMMUNICATIONS ALLIANCE

The Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"),[1] the National Telecommunications Cooperative Association ("NTCA"),[2] and the Western Telecommunications Alliance ("WTA")[3] hereby submit this reply to the opposition to the Allband Communications Cooperative ("Allband") *Application for Review*[4] filed by the National Cable & Telecommunications Association ("NCTA").[5] Allband's application highlights the long-term nature of planning for, constructing, and then recovering and paying down network investment. The Commission should reject NCTA's superficial arguments that ignore such facts and breeze past the universal service implications for rural consumers of a limited waiver with respect to recovery of long-term investments.

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[1] OPASTCO is a national trade association representing approximately 420 small incumbent local exchange carriers ("ILECs") serving rural areas of the United States.

[2] NTCA is a national trade association representing more than 580 rural rate-of-return ("RoR") regulated telecommunications providers.

[3] WTA is a trade association that represents over 250 small rural telecommunications companies operating in the 24 states west of the Mississippi River.

[4] Allband Communications Cooperative Application for Review of the Wireline Competition Bureau Decision in the July 25, 2012 FCC Order, WC Docket No. 10-90, *et al*. (filed August 24, 2012) ("*Application for Review*").

[5] Opposition of the National Cable & Telecommunications Association to Allband's Application for Review, WC Docket No. 10-90 (filed September 11, 2012) ("*NCTA Opposition*").

In granting Allband's initial waiver request in part,[6] the Wireline Competition Bureau found that the application of the $250 per-line per-month cap on total high-cost support to Allband would undermine the company's ability to continue providing consumers with access to voice services, in an area where no terrestrial alternative exists.[7] Unfortunately, as Allband explains in detail, its circumstances will not change during the three-year period for which the waiver was granted.

There are two ways in which a company like Allband might "manage to the cap" – by cutting costs and/or increasing revenues. As the Bureau recognized, however, Allband "is not in a position to immediately reduce its expenses"[8] such as salaries, wages, and numerous other fixed expenses. Furthermore, as demonstrated in Allband's *Application for Review*, even the entire elimination of *all* non-fixed expenses would not enable Allband to operate within the $250 per-line per-month limit within three years.[9] In addition, the carrier's fixed expenses cannot be reduced to a level sufficient to allow Allband to fall below the $250 cap within three years.[10] Indeed, as Allband states, "expense savings in these areas [non-fixed costs] may be limited if quality service is to be provided to customers."[11]

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[6] *Allband Communications Cooperative Request for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90, Order, DA 12-1194 (released July 25, 2012) ("*Allband Waiver Order*").

[7] *Id.*, ¶10.

[8] *Id.*, ¶12.

[9] *Application for Review*, pp. 4-5. Allband notes that even if this were possible, their "federal support funding for fixed costs [for 2102] would be $431 per-line, per-month." *Id.*, p. 5. That number, for fixed costs, drops to $393 per-line, per-month in 2015. *Application for Review*, Attachment 1, Table 2.

[10] *Id.*, pp. 5-6.

[11] *Id.*, p. 5.

The limited addressable market in Allband's service area only exacerbates its circumstances and similarly limits its options for "managing to the cap." Even a significant effort to "expand its subscriber base to the extent possible,"[12] as the Bureau recommends, is unlikely to enable Allband to meet the $250 cap. This is because, as noted in their *Application for Review*, Allband already provides voice service to 147 *out of a possible 212* consumers, and their penetration rate for broadband services currently stands at 36 percent.[13] Thus, even a substantial increase in their voice and broadband penetration rates is unlikely to enable Allband to provide voice service to its rural consumers within the $250 cap in three years. As a result, neither a substantial decrease in expenses, nor a substantial increase in penetration rates, or both, is likely to offset the revenues lost as a result of the $250 cap in even the long term, much less in three years.

Thus, after the three-year duration of the current limited waiver has run, Allband will once again face the significant expense and utilization of limited resources necessary to apply for a waiver of the $250 cap. This is an estimated $50,000 expense[14] that could otherwise be used to extend service to additional consumers or invest in the capability to provide new services, both of which could increase Allband's revenue streams over the long term. Of course, each of these avenues of increasing revenue streams, and thus reducing the need for high-cost support, necessitates investments and the incurrence of expenses that will limit Allband's ability to stay within the $250 cap in the near term.

NCTA, the only party to file in opposition, ignores all of these facts and chooses instead to make baseless assertions. For instance, the grant of a waiver of the $250 cap has no bearing

[12] *Allband Waiver Order*, ¶14.

[13] *Application for Review*, p. 6.

[14] *Id*., p. 9.

on the Commission's ability to ensure that Allband utilizes high-cost support for the purposes for which it is intended.[15] In particular, the *USF/ICC Transformation Order* adopted robust new provisions to ensure that all high-cost support recipients are accountable for their use of these funds.[16] These provisions will enable the Commission to ensure that Allband's expenses continue to be reasonable and prudent and are only made for the purpose of providing affordable voice and broadband services to their customers.

Moreover, NCTA makes not a single mention of the rural consumers that are the focus of the universal service provisions of the Telecommunications Act of 1996. Allband's *Application for Review*, and the circumstances under which it provides service to a population that lacked any terrestrial voice service prior to 2003, reveals the very reasons that the Universal Service Fund exists – the provision of "reasonably comparable" basic and advanced services, at affordable and reasonably comparable rates, to rural consumers who would otherwise lack access to such services.[17] Given that the $250 cap would put this at risk, a situation that is highly unlikely to change in three short years, it would not be in the public interest to divert Allband's limited resources from the provision of voice and broadband services in a difficult-to-serve rural community to planning for the "next waiver petition." The Commission should therefore dismiss NCTA's baseless opposition and consider a more reasonable extension of the waiver timeframe pursuant to Allband's *Application for Review*.

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[15] NCTA, p. 3.

[16] *Connect America Fund, et al.*, WC Docket No. 10-90 *et al*., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17848-17862, ¶¶568-614 (2011) ("USF/ICC Transformation Order" or "Order").

[17] As the *Allband Waiver Order* acknowledges, "Allband was formed as a nonprofit in 2003 because no other service provider was willing to provide service to the area." *Allband Waiver Order,* ¶11.

Respectfully submitted,

THE ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

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September 21, 2012

CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the OPASTCO, NTCA, and WTA reply to opposition was sent on this, the 21st day of September, 2012 via electronic mail, to those listed on the attached sheet.

By: /s/ Brian J. Ford
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