

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

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90

**REPLY COMMENTS  
OF  
NTCA–THE RURAL BROADBAND ASSOCIATION**

Pursuant to Section 1.3 of the rules of the Federal Communications Commission (“Commission”), NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> submitted in October 2017, on behalf of its members and other similarly situated operators, a Petition for Temporary Waiver (“Petition”) of certain provisions of the agency’s Lifeline Universal Service Fund (“USF”) rules. The Petition seeks a deviation from the strict application of the updated minimum service standards applicable to fixed, wireline broadband Internet access service (“BIAS”) eligible for support by the Lifeline program.<sup>2</sup> Grant of the Petition would allow customers currently subscribing to 10 Mbps download/1 Mbps upload service and receiving the Lifeline discount to continue to receive that service *should they so choose to do so*.<sup>3</sup>

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<sup>1</sup> NTCA represents nearly 850 small rural incumbent local exchange carriers (“RLECs”). All of NTCA’s members provide quality voice and broadband services, and many of its members provide wireless, cable, satellite, and long distance and other advanced communications services to their rural communities.

<sup>2</sup> *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, WC Docket No. 11-42, DA 17-619 (rel. Jun. 26, 2017) (“*Public Notice*”).

<sup>3</sup> The NTCA Petition for Temporary Waiver seeks relief only with respect to the 15 Mbps download/2 Mbps upload broadband speed standard as announced by the Wireline Competition Bureau on June 26, 2017 and that was effective December 1, 2017. *Id.*, p. 1. The requested relief would not apply to the updated broadband data usage of

Because the Petition is consistent with the Commission’s “good cause” standard, would promote the goals of the *2016 Lifeline Reform Order*,<sup>4</sup> and is unopposed, the Commission should grant the requested relief without delay for the benefit of rural, low-income consumers.

NTCA seeks the requested relief to ensure that the Lifeline program can benefit as many rural low-income consumers as possible. NTCA also seeks to provide rural low-income consumers with choice in terms of the service to which they subscribe. As it stands today, absent grant of the requested waiver, the updated minimum speed standard could have the unfortunate (and certainly unintended) consequence of forcing some low-income rural consumers to discontinue their service. This is because the increase in speed (to 15 Mbps download/2 Mbps upload) will almost certainly come with an increase in monthly rate, and as a result, certain low-income consumers may be unable to afford their broadband connection going forward. Such a result would be entirely counter to the *2016 Lifeline Modernization Order*’s goal of ensuring that additional low-income Americans have access to all that an Internet connection can provide.<sup>5</sup>

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250 GB per month also effective as of December 1, 2017 nor would the requested relief apply to any minimum service standard as applicable to mobile wireless providers. *Id.*, p. 2.

<sup>4</sup> *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“*2016 Lifeline Modernization Order*” or “*Order*”).

<sup>5</sup> To be clear, NTCA understands that low-income consumers can apply the Lifeline discount to a voice/BIAS bundle even if the BIAS service does not meet the minimum service speed standard (if the discount is specifically applied to the voice service portion of that bundle). *Id.*, ¶ 123. Thus, a Lifeline-eligible consumer currently receiving the discount for a 10/1 service can in effect continue to do so after December 1, 2017 if they subscribe to voice service as well and apply the discount to the voice. However, the Lifeline discount for that voice service is subject to a phase-down beginning December 1, 2019 – the \$9.25 discount shrinks by \$2 on that date. *Id.*, ¶ 64. Thus, this is just a short-term reprieve for low-income consumers. Even worse, this forces low-income consumers to take a voice service they may not want. No consumer, rural or urban, low-income or otherwise, should be forced to take a service they do not want in order to make the service they do want affordable.

The NTCA Petition, having been subject to public notice and comment,<sup>6</sup> is unopposed; the Petition was however strongly supported by WTA – Advocates for Rural Broadband. In supporting the NTCA Petition, WTA hones in on a key point, stating, “it would be incorrect to say that Lifeline customers will receive subpar broadband if NTCA’s temporary waiver is granted.”<sup>7</sup> WTA is correct, because grant of the Petition would empower low-income rural consumers to *choose* to subscribe to 15/2 service if they determine that such a service fits within their budget. Yet these consumers would also remain free to continue subscribing to the 10/1 service they already have should that option fit their needs and financial resources. *The choice would therefore ultimately remain with the low-income consumer to pick the service that fits their budget and need, like any other consumer.*

It must also be reiterated here that the NTCA Petition seeks a *temporary* waiver, one that would remain in place only until the underlying problem that necessitates the filing of this petition is solved. Specifically, NTCA asks the Commission to waive the application of the minimum speed standard until such time as sufficient High Cost universal service support is provided and consumers’ rates on rural networks will as a baseline be reasonably comparable to those in urban areas. Only at that point can the Lifeline program then fulfill its critical role of ensuring that low-income consumers in rural communities receive the additional support needed for them to afford a connection, just like low-income consumers in urban areas. Until such time as the High Cost program is sufficiently funded and can work in tandem with the Lifeline program to provide affordable broadband to every rural consumer, low-income or

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<sup>6</sup> *Wireline Competition Bureau Seeks Comment on NTCA Petition for Temporary Waiver*, WC Docket Nos. 09-197, 10-90, 11-42, Public Notice, DA 17-1053 (rel. Oct. 26, 2017).

<sup>7</sup> Comments of WTA – Advocates for Rural Broadband, WC Docket Nos. 09-197, 10-90, 11-42 (fil. Nov. 27, 2017), pp. 4-5.

otherwise, the Commission should grant the Petition to ensure that any broadband adoption gains among low-income consumers in the wake of the *2016 Lifeline Modernization Order* are not lost.

For all of the reasons discussed above, good cause<sup>8</sup> exists for the Commission to grant the NTCA Petition. Grant of the waiver would ensure that low-income consumers now “on the network” and enjoying the benefits of BIAS as a result of the Lifeline program will have the choice of continuing to subscribe to 10/1 BIAS *should they determine that such a service better meets their needs and fits their budget*. Special circumstances would seem to compel deviation from strict application of the rule at issue herein, as it is abundantly clear that the Commission never intended the annual update to the Lifeline program minimum service standards to reverse any gains in broadband adoption by low-income consumers spurred by the *Order*.

Respectfully submitted,

**NTCA–The Rural Broadband Association**

By: /s/ Michael R. Romano  
Michael R. Romano  
Senior Vice President –  
Industry Affairs & Business Development  
[mromano@ntca.org](mailto:mromano@ntca.org)

By: /s/ Brian J. Ford  
Brian J. Ford  
Senior Regulatory Counsel  
[bford@ntca.org](mailto:bford@ntca.org)

4121 Wilson Boulevard, Suite 1000  
Arlington, VA 22203  
703-351-2000 (Tel)

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<sup>8</sup> Section 1.3 of the Commission’s rules states that “rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.” The “good cause shown” standard has been interpreted to grant the Commission discretion to waive application of its rules in situations where strict compliance would not be in the public interest. Generally, waiver of the Commission’s rules is granted when both (i) special circumstances warrant a deviation from the general rule and (ii) such deviation will serve the public interest.