

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

Connect America Fund	)	WC Docket No. 10-90
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259

**REPLY OF NTCA–THE RURAL BROADBAND ASSOCIATION  
REGARDING AMENDED APPLICATION FOR REVIEW OF DEVISION TO REMOVE  
LENNON TELEPHONE COMPANY FROM RURAL BROADBAND EXPERIMENTS  
AND PETITION FOR WAIVER OF RURAL BROADBAND EXPERIMENTS  
AUDITED FINANCIAL STATEMENTS REQUIREMENT**

NTCA–The Rural Broadband Association (“NTCA”) hereby submits its reply with respect to the above-referenced Application for Review and Petition for Waiver filed by Lennon Telephone Company (“Lennon”) on February 9, 2015 (“Application/Petition”). In its Application/Petition, Lennon explains that it submitted its financial statements as reviewed by an independent auditor in connection with its provisional award of Rural Broadband Experiment (“RBE”) support. The Wireline Competition Bureau (the “Bureau”) nonetheless removed Lennon from the RBE program for failure to submit three years of audited financial statements, giving rise to the company’s Application/Petition.

Since the notion of RBEs was first announced early last year, NTCA has been a strong advocate for reasonable, but meaningful, accountability in the program, including requiring that all would-be support recipients comply with statutory provisions mandating distribution of support only to eligible telecommunications carriers (“ETC”) that offer both voice and broadband to consumers.<sup>1</sup> NTCA has also advocated consistently that the Commission look more deeply at the specific track records of individual would-be recipients, suggesting preference (or at least

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<sup>1</sup> See, e.g., *Ex Parte* Letter from Michael R. Romano, Sr. Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission (the “Commission”), WC Docket No. 10-90, *et al.* (filed Jan. 17, 2014).

reasonable flexibility regarding waivers) should be afforded to those with a demonstrated history of actual performance in or near the areas they propose to serve in a RBE application, in lieu of accepting any applicant's blanket promises of ability to perform and credentials that provide little, if any, indication of actual ongoing operating experience in rural, high-cost areas.<sup>2</sup> Finally, NTCA has urged the Commission to hold fast to requirements governing the technical capabilities of both applicants and the systems/solutions they would propose to deploy, rather than assuming that certain technical systems will indeed provide quality voice and broadband services to consumers consistent with ETC obligations or even granting waivers of such requirements that could undermine consumer experience.<sup>3</sup>

In short, it is important for the Commission and the Bureau to engage in a case-by-case analysis of requests for relief from program requirements, and to consider granting such relief where – but only to the extent that – operational expertise, accountability, technical capability, and the consumer experience in terms of receiving quality and affordable voice and broadband can be assured notwithstanding any such grant. In the present case, Lennon is a company that has an

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<sup>2</sup> See, e.g., Comments of NTCA, WC Docket Nos. 10-90 and 14-259 (filed Jan. 14, 2015), at 2 (“Such a track record requires more than merely substituting the general professional or technical capabilities of management for audited financials showing the operations of the firm over the past several years. Instead, grant of any waiver should turn upon a much more specific showing that the applicant or its management is actually familiar with the area it intends to serve, that the applicant or its management has operated in or near that area (or in areas like it) for a sustained period in the past in connection with other efforts, and that the applicant or its management has in fact had the experience of delivering quality, reasonably affordable services to consumers in such areas over a longer period of time than just a year or two.”).

<sup>3</sup> *Id.* at 3 (“[W]hile NTCA recognizes that certain chronological or operational realities may obstruct compliance with financial reporting requirements, waivers from technical, deployment or other service-related obligations should not be issued on the basis of recent market entry or other condition related to an applicant's lack of experience. The Rural Broadband Experiment funding should support robust deployment of additional broadband connections and therefore demands its implementation by those fully fit to do so based upon a demonstrated, sustained, longer-term track record (at least by the management of the firm) of network deployment, network operation, and service delivery to consumers in high-cost, rural areas. Federal universal service policy should demand no less than such a more specific showing of relevant experience.”); *cf.* Opposition of NTCA to ViaSat Application for Review, WC Docket No. 10-90 (filed Jan. 20, 2015), at 6 (“Services offered to rural consumers cannot possibly be deemed ‘reasonably comparable’ in quality to those in urban areas if there are material differences in latency.”), at 6.

extremely long history of rural operations and substantial experience with ETC obligations and existing federal programs as described in the Application/Petition. Nothing in the Lennon Application/Petition implicates operational expertise, the quality of services that consumers will receive, or the technical capabilities of the platforms over which those are delivered; no waiver is sought with respect to any such requirements. And, as to accountability, as Lennon notes, the Commission has previously found in other universal service contexts that reviewed financial statements can provide “sufficient assurance” of the well-being of the would-be support recipient.<sup>4</sup> Indeed, it is not as if Lennon just formed in recent days to seek out federal dollars, has no documented track record to help judge its *bona fides*, or even is unable to present *any* financial statements whatsoever. Rather, Lennon has been in business for over one hundred years and has its financial statements reviewed by a Certified Public Accountant.

Where an applicant lacks prior experience with the Commission, the Universal Service Administrative Company, and other federal programs, and does not have a demonstrated track record of performance of at least several years in deploying and then actually operating rural networks, NTCA would submit that it could make very good sense to compel several years of audited financial statements from a would-be support recipient to be assured of the applicant’s capabilities and wherewithal. But by the same token, in the present case involving Lennon, such additional levels of assurance are unnecessary for the precise reasons captured in the Fifth Order on Reconsideration and in light of the substantial, century-long track record of Lennon in deploying rural networks and serving rural consumers.

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<sup>4</sup> Application/Petition at 4 (citing *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Fifth Order on Reconsideration (rel. Nov. 16, 2012), at ¶ 10).

For the foregoing reasons, the Commission should grant the relief sought by Lennon.

Respectfully Submitted,



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