

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Petition of	)	
North American Local, LLC for	)	Docket No. TC23-046
Reclassification As A Facilities-Based Eligible	)	
Telecommunications Carrier	)	

**Supplement to Petition For Reclassification As A Facilities-Based  
Eligible Telecommunications Carrier**

North American Local, LLC (“NAL”) hereby supplements its Petition for reclassification as a “facilities-based” Eligible Telecommunications Carrier (“ETC”) in South Dakota with information establishing its eligibility as a facilities-based ETC.<sup>1</sup> As demonstrated in this Supplement to Petition, NAL continues to meet all of the requirements for ETC status as established in 47 USC § 214(e)(2), 47 CFR Part 54 of the rules of the Federal Communications Commission (“FCC”), and S.D. Admin. R. § 20:10:32:42. The Commission previously found that NAL meets the requirements for ETC designation and that the public interest would be served by designating NAL as an ETC in Tribal areas served by rural telephone companies. *See NAL ETC Order*. In its ETC Petition, NAL informs the Commission about its success in providing Affordable Connectivity Program (“ACP”) services in South Dakota and the challenges in obtaining Lifeline support pursuant to the Commission’s *NAL ETC Order*. As a Commercial Mobile Radio Service (“CMRS”) provider, NAL entered the South Dakota market as a reseller, but since its designation as an ETC, NAL has expanded its commitment to South Dakota and constructed its own facilities in the state. Now, as a CMRS provider with its own facilities in the state, NAL is seeking reclassification as a facilities based ETC and demonstrates herein its continuing eligibility as an ETC in South Dakota.

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<sup>1</sup> On October 5, 2021, the Commission granted ETC status to NAL by its *Order Approving Settlement Stipulation; Order Granting Lifeline-Only Eligible Telecommunications Carrier Designation in Nor-Rural and Certain Tribal Lands’ Service Area* in Docket No. TC19-009 (“*NAL ETC Order*”). On September 29, 2023, NAL filed a Petition with the Commission seeking classification as a facilities based ETC in the state of South Dakota (“*NAL Petition*”). On October 12, 2023, the Commission issued Order Granting Intervention to South Dakota Telecommunications Association (“SDTA”).

NAL demonstrates herein that it meets the requirements for designation as a facilities based ETC under the rules of the SDPUC and the FCC. In support of its NAL Petition, and pursuant to S.D. Admin. R. § 20:10:32:43, NAL provides the following information:

Name, address and telephone number of the applicant and its designated contact person:

North American Local LLC  
Jorge Bellas  
5841 Balderas Avenue  
Pensacola, FL 32507  
850-449-5328

Proposed effective date of designation of eligible telecommunications carrier status: January 1, 2024 or sooner.

Identification of the service area, including a detailed map, for which designation is sought: As established in the *NAL ETC Order*, the Commission approved NAL's ETC service area as including all of the non-rural service areas of South Dakota and certain federally recognized Tribal lands in South Dakota, specifically, Crow Creek, Flandreau Santee, Lower Brule, Pine Ridge, Rosebud, Sisseton-Wahpeton Oyate, Standing Rock, and Yankton ("ETC Service Area"). NAL is not proposing any changes to its ETC Service Area.

A statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R § 54.201 (January 1, 2006): NAL continues to meet all applicable requirements for designation as an ETC for the limited purpose of providing Lifeline service to eligible low-income consumers residing in its ETC Service Area.

A statement specifying why the applicant's proposed designation is in the public interest: In the *NAL ETC Order*, the Commission found that "NAL's application to become a wireless Lifeline-only ETC in non-rural areas served by CenturyLink in South Dakota and federally recognized Tribal lands in South Dakota, specifically, Crow Creek, Flandreau Santee, Lower Brule, Pine Ridge, Rosebud, Sisseton-Wahpeton Oyate, Standing Rock, and Yankton is in the public interest." See *NAL ETC Order* at p. 3. The reclassification of NAL as a facilities-based ETC in South Dakota will further serve the public interest by enabling the company to expand its investment in South Dakota and specifically in rural areas where access to facilities-based telecommunications and broadband services is limited compared to urban areas in the state. Currently, NAL serves approximately 4,000 rural consumers in South Dakota and is federally certified to provide ACP services in all 50 states and United States territories.

#### **OVERVIEW OF NAL AND ITS LIFELINE SERVICE**

1. NAL is a Nevada limited liability company with principal offices in Pensacola, Florida. The Company is registered with the South Dakota Secretary of State as a foreign limited liability company and is currently offering wireless service, including ACP services, in South Dakota. NAL is currently designated as an ETC in the states of Alabama, Minnesota, North Dakota, and Wisconsin, along with South Dakota.

2. NAL offers low-income consumers prepaid wireless service without hidden costs, without varying monthly charges, and no contractual commitments. Consumers are able to customize their mobile phone service to suit their needs depending upon their voice, text and data needs. NAL has been providing Lifeline service with a focus on rural and Tribal areas since September of 2010 and has never been subject to any complaints, fines or enforcement action, and

is in compliance with all applicable Lifeline requirements, including enrollment and eligibility requirements implemented by the Universal Service Administration Company (“USAC”).

### **NAL SATISFIES THE REQUIREMENTS FOR ETC DESIGNATION**

3. NAL meets the requirements for designation as an ETC under the rules of the SDPUC (S.D. Admin. R. § 20:10:32:43) and the FCC (47 USC §214(e)(2); 47 CFR Part 54). The Commission has previously found that NAL meets the requirements for designation as an ETC. *See NAL ETC Order.*

4. 47 USC § 214(e)(2) provides for the designation of carriers as ETCs for purposes of receiving universal service support, provided the requesting carrier (i) offers services supported by federal universal service support mechanisms and (ii) advertises the availability of such services.<sup>2</sup> The SDPUC and the FCC have also adopted requirements for the designation of carriers as ETCs.<sup>3</sup> As demonstrated below, NAL satisfies all applicable requirements for designation as a facilities-based ETC for purposes of Lifeline only support and the public interest would be greatly served by making available NAL’s wireless Lifeline service for low-income consumers.

#### NAL is a Common Carrier

5. NAL operates as a common carrier as defined in 47 USC § 153(10). As a CMRS provider, NAL is regulated as a common carrier, subject to all applicable requirements governing common carrier CMRS operations.<sup>4</sup> The Commission has previously found that NAL is a common carrier. *See NAL ETC Order.*

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<sup>2</sup> *See* 47 CFR § 54.201(d); *see also* S.D. Admin. R. § 20:10:32:42.

<sup>3</sup> *See* S.D. Admin. R. § 20:10:32:43; 47 CFR Part 54.

<sup>4</sup> 47 USC § 332(c)(1)(A); 47 CFR § 20.9.

NAL will Provide the Supported Services for Designation as an ETC

6. Voice telephony services and broadband Internet access services are the supported services under the federal universal service system.<sup>5</sup>

7. NAL provides each of the services included in the definition of voice telephony services, including:<sup>6</sup>

- Voice grade access to the public switched network;
- Local usage;
- Access to emergency services; and
- Toll limitation for qualifying low-income consumers.

8. NAL will provide voice grade access to the public switched network, enabling NAL's customers to make and receive calls on the public switched telephone network.

9. NAL will also meet the requirements for local usage by offering a local usage plan comparable to the one offered by the incumbent local exchange carriers.<sup>7</sup>

10. Consumers will have access to emergency services, including access to 911 and E911 service where available. All wireless handsets will be 911/E911 compliant. Moreover, NAL will replace, free of charge, any E911 noncompliant handset owned by consumers looking to obtain Lifeline service from the Company. 911 emergency calls will not incur any usage charge and Lifeline customers will be able to make 911 calls regardless of service activation status or availability of minutes.

11. NAL does not differentiate between domestic long-distance usage and local usage, so toll limitation service ("TLS") is not necessary to protect against customers from incurring

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<sup>5</sup> 47 CFR § 54.101(a).

<sup>6</sup> 47 CFR § 54.101(a)(1).

<sup>7</sup> See S.D. Admin. R. § 20:10:32:43.05.

unanticipated toll charges. To the extent toll charges are imposed in the future, NAL will implement TLS.

12. NAL will also provide Lifeline customers with broadband Internet access service, which the FCC has defined as “the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.”<sup>8</sup>

13. NAL will make available to all eligible Lifeline customers, both Tribal and non-Tribal, different options for Lifeline service with varying voice minutes, text messages, and mobile broadband. All of NAL’s Lifeline rate plans will meet or exceed the FCC’s minimum standards for voice and data services.<sup>9</sup> NAL will not charge an activation fee for Lifeline subscribers and there will be no added charge for domestic toll calls, calls to 911, or calls to customer service, which customers can reach by dialing 611 from their handset or a toll-free number from any phone.

14. NAL’s Lifeline service offerings will significantly benefit low-income consumers, who currently may not have access to any comparable Lifeline rate plans.

NAL is a Wireless Provider Qualified to Participate in the Lifeline Program

15. To participate in the Lifeline program, a common carrier must use its own facilities or a combination of its own facilities and resale of another carrier’s facilities to provide the supported services.<sup>10</sup>

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<sup>8</sup> 47 CFR § 54.101(a)(2).

<sup>9</sup> 47 CFR § 54.408.

<sup>10</sup> 47 USC § 214(d)(1); 47 CFR § 54.201(d)(1). The FCC granted ETC’s forbearance from the facilities requirement on January 31, 2012. (“Upon the effective date of this Order, we grant forbearance from the facilities requirement of section 214(e)(1)(A) of the Act and section 54.201(d)(1), (i) of the Commission’s rules, subject to the conditions contained in this Order, to all carriers seeking to provide Lifeline-only service on a non-facilities basis”). See *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at footnote 982, February 6, 2012.

16. NAL owns and maintains telecommunications and broadband facilities in South Dakota used to provide Lifeline service.

17. NAL commits to serving all eligible Lifeline consumers throughout its ETC Service Area. NAL will provide Lifeline services to end user customers in the state of South Dakota by using its own facilities and the facilities of other wireless carriers serving geographic areas within NAL's ETC Service Area.<sup>11</sup>

#### ETC Service Area

18. As established in the *NAL ETC Order*, the Commission designated NAL as an ETC in all of the non-rural service areas of South Dakota and certain federally recognized Tribal lands in South Dakota, specifically, Crow Creek, Flandreau Santee, Lower Brule, Pine Ridge, Rosebud, Sisseton-Wahpeton Oyate, Standing Rock, and Yankton ("ETC Service Area"). NAL is not proposing any changes to its ETC Service Area.

#### NAL will Comply with Advertising Requirements

19. NAL will advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers in accordance with all applicable requirements.<sup>12</sup> The Company will use media of general distribution and, in addition to providing information on its website,<sup>13</sup> will use media sources that include, but are not limited to, point of sale materials, customer direct mail, customer brochures, print media, and community events.

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<sup>11</sup> S.D. Admin. R. § 20:10:32:43.01. As a recipient of Lifeline support only, the two-year service improvement plan requirement of S.D. Admin. R. § 20:10:32:43.02 does not apply.

<sup>12</sup> 47 CFR §§ 54.201(d)(2) and 54.405(b).

<sup>13</sup> See <https://www.northamericanlocal.com>

20. NAL will comply with the applicable advertising and reporting requirements of S.D. Admin. R. § 20:10:32:55 and will expand its advertising efforts, as necessary, to ensure that Lifeline-eligible customers are aware of its service offerings.

21. NAL's marketing materials will state, among other things, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) NAL is the provider of the services.<sup>14</sup>

22. NAL's Lifeline customer application and certification form will state that Lifeline is a federal benefit and that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program. As required by the FCC and USAC, NAL uses the standard Lifeline Program Application Form for enrolling eligible consumers into the Lifeline program.<sup>15</sup>

#### NAL Complies with the Additional Requirements Under 47 CFR §54.202

23. The FCC adopted additional ETC designation requirements for carriers not subject to state commission jurisdiction,<sup>16</sup> some of which the SDPUC specifically adopted in its rules. Regardless of applicability, NAL commits to meeting all these requirements.

24. 47 CFR § 54.202(a)(1) requires an applicant to "certify that it will comply with the service requirements applicable to the support that it receives." Specific to Lifeline service, 47

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<sup>14</sup> 47 CFR § 54.405.

<sup>15</sup> See [https://www.usac.org/\\_res/documents/li/pdf/nv/LI\\_Application\\_UniversalForm.pdf](https://www.usac.org/_res/documents/li/pdf/nv/LI_Application_UniversalForm.pdf).

<sup>16</sup> 47 CFR § 54.202.



CFR § 54.410 requires ETCs to comply with certification of eligibility and verification of continued eligibility requirements for Lifeline participation, which NAL will comply with. NAL will also comply with all applicable Lifeline requirements, including, but not limited to, not collecting service deposits, not charging a number-portability fee, and meeting all applicable reporting requirements.<sup>17</sup>

25. S.D. Admin. R. § 20:10:32:43.03 and 47 CFR §54.202(a)(2) requires an applicant to demonstrate that it has the ability to remain functional in emergency situations. NAL's Lifeline services will remain functional in emergency situations. The Company's network is redundant with back-office facilities and back-up electrical power is provided by generators at its locations. NAL can manage traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. The Company has sufficient back-up power to ensure functionality if its external power supply is unavailable.

26. S.D. Admin. R. § 20:10:32:43.04 and 47 CFR § 54.202(a)(3) requires a provider to demonstrate that it will satisfy applicable consumer protection and service quality standards. A wireless carrier's commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Consumer Code") satisfies this requirement. NAL will comply with the CTIA Consumer Code and any applicable South Dakota consumer protection requirements to ensure the Company offers its subscribers the highest level of protection and quality service. The Company will make every effort to resolve complaints expeditiously and will designate a specific contact person to resolve complaints or other compliance issues. NAL's customers will be able to call customer service by dialing 611 from

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<sup>17</sup> See 47 CFR §§ 54.401 and 54.422.

their handset and no minutes will be used or decremented for the call. Customers also will be able to call, toll-free, (833) 298-1118 from any phone to reach customer service.

27. 47 CFR § 54.202(a)(4) requires an applicant for Lifeline only support to demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with applicable requirements. Among the factors to be considered are: (i) a carrier's prior offering of service to non-Lifeline subscribers, (ii) the length of time the carrier has been in business, (iii) whether the carrier relies exclusively on Lifeline reimbursement to operate, and (iv) whether the carrier receives revenues from other sources.

28. NAL is a privately held corporation that has been in business since January 2010. NAL does not have any holding companies, operating companies, or affiliates. NAL's key management personnel have decades of combined telecommunications experience, including experience providing local and long distance services to residents of rural and urban areas and to low income individuals and families. NAL's management has extensive experience supporting the provisioning, marketing, fulfillment, and customer service needs of its customer base. Jorge Bellas has been in the telecommunications industry for over 20 years and has a proven track record of successfully managing telecommunications companies and is committed to keeping NAL an enterprise that will serve the public interest. The members of NAL's management can fulfill the requirements necessary to manage the implementation and ongoing support of this ETC designation.

29. NAL has demonstrated, over time, its ability to not only provide Lifeline service, but to do so in compliance with all applicable requirements. The Company has never been subject to a fine, penalty or enforcement action at the federal or state level related to its provision of Lifeline service.

30. NAL does not rely exclusively on Lifeline reimbursement to operate, as it receives revenues from other sources which are completely independent from the revenue it receives in the form of Lifeline support. The Company's revenue streams include income from the sale of telecommunications services to other telecommunications companies and residential customers. Because NAL generates its revenue from a diverse product portfolio and is both financially stable, profitable, and does not rely exclusively on Lifeline support for its operating revenues, it is financially capable of providing Lifeline service in compliance with all applicable requirements.

31. 47 CFR § 54.202(a)(5) and 54.202(a)(6) requires a provider to submit information describing the terms and conditions of voice telephony service and broadband Internet access service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan. NAL's Lifeline rates plans are found on its web page at <https://www.northamericanlocal.com> and are continuously updated to provide consumers with the best value for their Lifeline service.

The Public Interest will be Served by Granting ETC Designation to NAL

32. The public interest will be served by designating NAL a facilities based ETC for the limited purpose of providing Lifeline service to low-income consumers in South Dakota. As the Commission has previously found, "NAL's application to become a wireless Lifeline-only ETC in non-rural areas served by CenturyLink in South Dakota and federally recognized Tribal lands in South Dakota, specifically, Crow Creek, Flandreau Santee, Lower Brule, Pine Ridge, Rosebud, Sisseton-Wahpeton Oyate, Standing Rock, and Yankton is in the public interest." See *NAL ETC Order* at p. 3. The reclassification of NAL as a facilities-based ETC in South Dakota

will further serve the public interest by enabling the company to expand its investment in South Dakota and specifically in rural areas where access to facilities-based telecommunications and broadband services is limited compared to urban areas in the state. When the Commission designated NAL as an ETC two years ago, it took a very important step towards enabling residents of Tribal lands to have access to competitive discounted services for at-risk low-income consumers. The *NAL ETC Order* has yielded significant benefits for residents of Tribal lands in South Dakota. Specifically, more than 3,300 residents of Tribal lands in South Dakota are now receiving the benefits of the ACP because of the Commission's foresight and proactive steps in ensure residents of rural areas of South Dakota are served by advanced telecommunications and broadband service.

33. Now, NAL is looking to further expand its business and service in rural parts of South Dakota by becoming a facilities based ETC. Since its designation as an ETC in South Dakota, NAL has worked with Tribal communities to provide Lifeline and ACP service offerings tailored to their needs. To date, over 3,300 Tribal residents have taken advantage of NAL's new Tribal broadband service offerings and now, as the Commission envisioned, Tribal residents have access to affordable options for accessing the Internet. This success has led NAL to expand its business in South Dakota and construct and operate its own advanced broadband network facilities in the state. At its core, NAL has established a central office in Pine Ridge with network switching facilities and a point of interconnection ("POI") in Sioux Falls with network facilities connecting its Sioux Falls POI to its Pine Ridge central office. From its Pine Ridge central office, NAL connects to antenna towers to bring facilities-based services to consumers. Confidential Exhibit A depicts NAL's South Dakota network architecture. NAL plans to expand its network facilities

in South Dakota to provide facilities-based services to other Tribal areas in which it is designated as an ETC.

34. Consumers benefit from NAL’s high-quality service, competitive pricing and a dedicated focus on low-income consumers who are eligible for Lifeline supported services. NAL offers low-income consumers a competitive option of no contract/no credit check/no deposit service. Consumers choose NAL for its high-quality service, value pricing, and overall attention to customer satisfaction. NAL’s focus on the needs of Tribal residents is unique in that other service providers are primarily focused on serving a large community of interest. Regulators have long recognized the benefits to consumers of being able to choose from a variety of telecommunications providers services.<sup>18</sup> The availability of affordable telecommunications and broadband services for low income consumers is critical for public health, safety, and other services. Significantly, unlike national and regional carriers, NAL’s focus is on serving rural consumers, including eligible residents of Tribal lands. With a long record of serving the needs of rural consumers, including those residing on Tribal lands, NAL has established itself as a high-quality, consumer-focused, service provider for rural consumers.

35. By designating NAL as a facilities based ETC in South Dakota in Tribal areas within the state, the Commission will take one more step towards providing rural residents with comparable service to urban areas, consistent with public policy goals of federal, state, and tribal governments.

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<sup>18</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (FCC rel. Apr. 27, 2016) (“[W]e expect that increasing provider participation will increase competition among providers in the Lifeline program and incentivize providers to offer better quality services.”).

## CONCLUSION

NAL respectfully requests that the Commisison designate it as a facilities based ETC for the limited purpose of providing Lifeline service in the state of South Dakota.

Dated: October 28, 2023

Respectfully submitted,

**North American Local, LLC**

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**HIGHLY CONFIDENTIAL EXHIBIT A**

**NAL'S SOUTH DAKOTA NETWORK ARCHITECTURE**

**[REDACTED]**

### Certificate of Service

I hereby certify that a copy of this Supplement To Petition For Reclassification As A Facilities-Based Eligible Telecommunications Carrier was filed with the South Dakota Public Utilities Commission and served on the following individuals by email on October 28, 2023:

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