

**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. TC19-009
Designation as an Eligible Telecommunications)	
Carrier in the State of South Dakota)	

**North American Local, LLC
Responses To Fourth Data Requests of Staff**

North American Local, LLC ("NAL") hereby submits its response to the Fourth Set of Data Requests by Staff received on March 23, 2022.

Data Request 4.1. Has NAL been unable to provide Lifeline services in the CenturyLink wire centers and/or its stipulated federally recognized Tribal lands? Address each individually if responses are different.

Response: NAL has undertaken outreach initiatives aimed at providing Lifeline service on federally-recognized Tribal lands and in CenturyLink wire centers and has started the process of obtaining Lifeline support by requesting a Study Area Code from the Universal Service Administration Company ("USAC") and implementing the internal processes to ensure compliance with all applicable requirements. NAL currently has over 1,000 customers in South Dakota, but has been unable to offer Lifeline discounted service in its South Dakota Eligible Telecommunications Carrier ("ETC") service area (*e.g.*, federally-recognized Tribal lands and in CenturyLink wire centers) because USAC has not provided the Company with a Study Area Code ("SAC"), as explained below.

Data Request 4.2. Provide the February e-mail from Leah Gsell referenced in NAL's letter. In addition, provide the full correspondence with Ms. Gsell and all other correspondence with USAC related to its participation in the Lifeline program for South Dakota.

Response: Attached is a copy of the email correspondence with USAC, including the email from Leah Gsell, concerning NAL's request for a SAC for its South Dakota ETC service area.

Data Request 4.3. Explain how the Commission's designation of NAL as a facilities-based Lifeline is 'required' to enable NAL to receive federal Lifeline support. Are non-facilities-based providers not able to participate in the Lifeline program? If so, provide any orders and/or supporting documentation.

Response: In the *NAL ETC Order*, the Commission recognized that "NAL will provide Lifeline services to end user customers by using its own facilities or the antenna towers and radio equipment of facilities-based wireless carriers to serve end user customers" and that "[b]y using the facilities of other carriers, NAL is able to provide consumers in different geographic locations with the best coverage and service availability." *NAL ETC Order* at p. 3. USAC is interpreting this language to mean that NAL is a pure wireless reseller in the state of South Dakota, and as such, not eligible to receive federal Lifeline support in South Dakota without an approved Compliance Plan on file with the FCC.

As a facilities-based Commercial Mobile Radio Service ("CMRS") carrier, NAL is not required to have a Compliance Plan on file with the FCC; only resellers are required to have an approved Compliance Plan on file with the FCC to obtain Lifeline support. See *2012 Lifeline Reform Order* at para. 368.

Data Request 4.4 Provide a list and descriptions of all NAL facilities in the State of South Dakota that would support the requested clarification of NAL as a facilities-based ETC eligible for federal Lifeline support.

Response: A facilities-based carrier is defined as a carrier that provides at least one of the four supported services: voice grade access to the public switched network, or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers. See 47 C.F.R. § 54.101. NAL provides voice grade access to the public switched network and minutes of use for local and long distance service to its customers by using its own switching facilities and interconnect arrangements to the public switched and global Internet system.

Data Request 4.5 NAL indicates in its letter that hundreds of residents of Tribal lands have become customers of NAL. Has NAL been able to provide any Lifeline associated discount to those customers? If not, have current customers been paying the full amount related to their subscribed services?

Response: To date, NAL has not provided Lifeline service and its associated discounts to eligible low-income consumers in its ETC service area. NAL offers consumers discounted service through the Affordable Connectivity Program ("ACP") in its ETC service area in South Dakota, but has not made available the additional discounts available through the Lifeline program, which adversely impacts low-income consumers in its ETC service area.

Data Request 4.6 Explain how NAL qualifies as a facilities-based ETC eligible for Lifeline support.

Response: See response to Data Request 4.4. Providers of Lifeline service range from pure resellers who do not have any network facilities to carriers using their own network facilities. However, all carriers use the facilities of other carriers to varying degree. NAL uses its own switching facilities to provide voice grade access to the public switched network and minutes of use for local and long distance service, while using the last mile facilities of other carriers to provide the best coverage and service availability without being limited to the wireless coverage of any one carrier. See also responses to data requests submitted on September 17, 2019 and August 21, 2020. As a facilities-based carrier, NAL is eligible for Lifeline support, which it receives in other states as a facilities-based Lifeline provider.

Data Request 4.7 NAL's Letter dated March 31, 2022, requests the Commission "clarify the October 5, 2021, Order." What form of clarification specifically, is NAL seeking from the Commission? What language does NAL propose that would clarify the October 5, 2021, Order?

Response: NAL has established, and the Commission has previously recognized, that it is a facilities-based carrier. While the ETC Order states that NAL is a facilities-based carrier, the order also states that NAL will resell the services of other carriers to provide Lifeline service, which is permitted as a facilities-based carrier. See 47 CFR § 201(d)(1) ("using its own facilities or a combination of its own facilities and resale of another carrier's services"). USAC has stated it will approve NAL's request for a SAC if the *NAL ETC Order* is clarified to state, for example, in the second ordering clause that "NAL's request to be designated as a facilities-based ETC for purposes of providing Lifeline only service" (highlighted text would be the clarifying language to the *NAL ETC Order*).

Dated: April 8, 2022

Respectfully submitted,

North American Local, LLC

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