

**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.
Reclassification As A Facilities-Based Eligible)	
Telecommunications Carrier)	

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

North American Local, LLC (“NAL”) requests reclassification as a “facilities-based” Eligible Telecommunications Carrier (“ETC”) in South Dakota. On October 5, 2021, the Commission approved NAL’s application for designation “as an ETC for the purpose of providing Lifeline-only service in 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.” *Order Approving Settlement Stipulation; Order Granting Lifeline-Only Eligible Telecommunications Carrier Designation In Non-Rural and Certain Tribal Lands’ Service Areas, at page 5, TC19-009, October 5, 2021 (“SD NAL ETC Order”).* Based upon the Commission’s *SD NAL ETC Order*, the Universal Service Administration Company (“USAC”), who administers the Lifeline program, considers NAL to be a reseller of commercial mobile radio service (“CMRS”), *e.g.*, mobile wireless service, and not a facilities-based carrier for purposes of Lifeline support, even though NAL has its own facilities and is considered a facilities-based carrier in other states. Consequently, NAL has been unable to obtain Lifeline support for the provision of Lifeline service in South Dakota.

Since its designation as an ETC in South Dakota, NAL has provided Affordable Connectivity Program (“ACP”) service to eligible consumers within its ETC service area in South Dakota (*e.g.*, non-rural service areas and certain federally recognized Tribal lands, including Crow Creek, Flandreau Santee, Lower Brule, Pine Ridge, Rosebud, Sisseton-Wahpeton Oyate, Standing Rock, and Yankton). NAL has been very successful in serving the telecommunications and broadband needs of low-income consumers and now has more than 3,300 ACP customers

in South Dakota. Because USAC has interpreted the *SD NAL ETC Order* to limit NAL's Lifeline eligibility to resold services requiring an FCC-approved Compliance Plant, NAL has not been able to obtain Lifeline support for service provided to eligible consumers.¹ While NAL has been able to offer ACP service to eligible consumers (many of which are also eligible for Lifeline benefits), NAL has not been able to receive Lifeline support for telecommunications and broadband services offered to eligible consumers of the Lifeline program as intended by the Commission in its *SD NAL ETC Order*.

NAL has attempted to resolve its Lifeline eligibility with USAC by obtaining approval of its pending Compliance Plan, but the FCC has not approved Compliance Plans since 2017 and apparently has no intention of changing its policy-driven approach to Lifeline eligibility for wireless resellers. Meanwhile, NAL has been very successful in serving Tribal areas with Lifeline service in other states where it is considered a facilities-based carrier and has been successful in providing ACP services in South Dakota, where there is a significant consumer demand for affordable telephone and broadband services.

NAL's provision of ACP service and consumer demand for Lifeline service has prompted the Company to accelerate its build-out plans in South Dakota. Specifically, NAL has installed a telecommunications switch and associated equipment in a facility in Pine Ridge and has established connectivity to cell sites and to other telecommunications providers to serve its end user customers. Confidential Exhibit A is a detailed description of NAL's facilities in South Dakota, which include a point of presence in Sioux Falls, facilities from Sioux Falls to Pine Ridge, a switch and associated equipment in Pine Ridge, and connectivity to end user customers.

¹ On February 22, 2021, Leah Gesell, USAC Program Integrity Manager stated "You are correct – we based our decision on the understanding that North American Local was not facilities based. Yes, if we can confirm that the ETC Order from the PUC was based upon the company being facilities based, we can approve the SAC request."

NAL is now clearly a facilities-based carrier with telecommunications facilities located in the state of South Dakota. As such, NAL respectfully requests reclassification as a facilities based ETC for purposes of federal Lifeline support.

Dated: September 29, 2023

Respectfully submitted,

North American Local, LLC



By: Gene DeJordy
Counsel for North American Local, LLC
Dakelyn Consulting
766 Mill Hill Terrace
Southport, CT 06890
203-583-0256
Gene@Dakelyn.com