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DEC 7 2016

Public Service
Commission

December 5, 2016

Ms. Talina Mathews
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

Case No. 2016-00426

**RE: American Broadband & Telecommunications' Petition for Reimbursement
from Kentucky Universal Service Fund**

Dear Ms. Mathews:

Enclosed please find the original and ten copies of American Broadband & Telecommunications' Petition for Reimbursement from Kentucky Universal Service Fund.

Please place your file stamp on the extra copy and return to me in the enclosed self-addressed, stamped envelope.

Very truly yours,

STOLL KEENON OGDEN, PLLC

A handwritten signature in black ink, appearing to read "D. Brent", is written over the typed name.

Douglas F. Brent

Enclosure

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Commission

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of)
)
American Broadband and)
Telecommunications Company)
)
Petition for Reimbursement)
From Kentucky Universal Service)
Fund as an Eligible Telecommunications)
Carrier)
_____)

Case No. 2016-00 426

**PETITION OF AMERICAN BROADBAND AND TELECOMMUNICATIONS
COMPANY FOR REIMBURSEMENT FROM KENTUCKY UNIVERSAL SERVICE
FUND AS AN ELIGIBLE WIRELESS TELECOMMUNICATIONS CARRIER**

American Broadband and Telecommunications Company (“Company” or “American Broadband”), by its undersigned counsel and pursuant to section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), hereby requests the Commission to declare that American Broadband is eligible for support payments from the Kentucky Universal Service Fund (“KUSF”)¹ when it provides Lifeline telecommunications services to eligible low income customers. The Commission previously determined American Broadband meets all regulatory requirements for ETC designation and declared the company eligible to receive federal USF support for Lifeline.² Granting American Broadband access to KUSF support requires no additional fact-finding by the Commission. Accordingly, American Broadband

¹ See generally *In the Matter of an Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360 (May 22, 1998)(creating state low income fund); *In the Matter of an Inquiry into Universal Service and Funding Issues*, Adm. Case No. 360 (December 28, 1998) (“*December 1998 Lifeline Order*”) (setting initial Lifeline charge and ordering all carriers to contribute).

² *Application of American Broadband and Telecommunications Company for Limited Designation as an Eligible Wireless Telecommunications Carrier*, Order, Case No. 2013-00175 (November 5, 2013) (“*American Broadband Designation Order*”).

requests expedited action on this request, including approval for KUSF reimbursement for services provided in Kentucky on and after December 2, 2016. In support of this Petition, American Broadband respectfully states as follows:

I. BACKGROUND

A. American Broadband is an Eligible Telecommunications Carrier

American Broadband, through its wholesale wireless arrangements with wireless licensees, currently offers services supported by the Lifeline program³ to eligible consumers throughout the Company's designated service area in Kentucky. The Company competes with other ETCs receiving support from both the federal USF and Kentucky's low income fund. Although eligible for state Lifeline fund support, American Broadband did not request it when it petitioned the Commission to declare it an ETC.

B. American Broadband's Updated Lifeline Offering

When designated as an ETC, the Company offered Lifeline-eligible consumers a plan including 250 voice minutes and 250 texts, and the same wireless service features and functionalities that the Company offers to its non-Lifeline customers.⁴ This offer has been enhanced. The FCC's *Lifeline Modernization Order*⁵ issued April 27, 2016 required all Kentucky ETCs, including American Broadband, to meet new federal standards for Lifeline offerings effective December 1, 2016. Among other things, the FCC established a minimum level of 500 minutes per month of service for mobile voice service, without increasing federal support. The FCC also amended its rule to remove state-specified eligibility criteria for Lifeline

³ See 47 C.F.R. § 54.401. Kentucky has no state counterpart to the federal rules defining Lifeline service.

⁴ See *American Broadband Designation Order* at 11.

⁵ *Lifeline and Link Up Reform and Modernization*, Third Report and Order, 31 FCC Rcd 3962 (April 27, 2016).

support.⁶ These changes are now effective, and American Broadband is meeting the new federal standards. American Broadband's enhanced Lifeline offer is now available and the updated description may be found at the Company's website at its American Assistance link: <http://www.americanassistance.com>.

C. The KUSF Subsidy is Intended for Support of Eligible Kentucky Households Served by American Broadband

For nearly twenty years the Commission has anticipated broad carrier participation in the Kentucky Lifeline program.⁷ Implicitly, that broad participation includes KUSF support for ETCs, regardless of the technology a carrier uses to provide voice telecommunications service. Indeed, recently the Commission began a significant public outreach program to inform low income Kentuckians about changes to the Lifeline program, emphasizing the federal and state subsidies that support voice telecommunications within the state.⁸ The Commission's media releases and online video have announced the state subsidies are generally available. As these messages make clear, the KUSF was created for the benefit of all low income customers who enroll in Lifeline. American Broadband requests the Commission to confirm that the Company may begin seeking state low income support from the KUSF for the services it provides to "eligible Kentucky households."⁹ American Broadband's qualified Lifeline consumers are eligible Kentucky households and the Company is entitled to KUSF reimbursement when it serves them anywhere in the state, as the Commission may confirm by Order.

⁶ *Id.* at ¶ 573.

⁷ *In the Matter of an Inquiry into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate, Adm. Case No. 355* (November 26, 1997) (requiring Lifeline participation by all incumbent local exchange carriers).

⁸ *See, e.g., Lifeline Program Changes Take Effect Today*, Ky. PSC news release (December 2, 2016).

⁹ *See id.* at p. 1 (explaining the Kentucky contribution of \$3.50 applies "for eligible Kentucky households").

As noted *supra*, granting American Broadband access to KUSF support requires no additional fact-finding by the Commission. As the Commission acknowledged in its October 19, 2016 Order in the Lifeline proceeding, Kentucky's state Lifeline program has mirrored the federal eligibility requirements in the past, and the federal rules for Lifeline have not contained a minimum usage allowance until now.¹⁰ Since American Broadband's Eligible Telecommunications Carrier status has already been granted by the Commission and American Broadband is in compliance with the federal rules governing the Lifeline program, the Commission need only confirm that as a matter of law American Broadband may begin seeking state reimbursement when it files its Lifeline reports.

II. STATE LOW INCOME FUND SUPPORT FOR AMERICAN BROADBAND IS IN THE PUBLIC INTEREST

In 1997, the Commission found "evidence of record of the demonstrated need in Kentucky for a Lifeline program" and said it would "embrace the full amount of credit available for Lifeline assistance."¹¹ Since then, the Commission has never wavered in support of universal service.¹²

State programs like the KUSF are clearly in the public interest insofar as they increase telephone penetration among the poor. In its *Lifeline Reform FNPRM*, the FCC said combined state and federal contributions to Lifeline have long been a critical part of the Lifeline program and expressed interest on ways to further encourage states to provide additional subsidies for

¹⁰ *Inquiry into the State Universal Service Fund*, Case No. 2016-00059 (noting federal standards and requiring wireless ETCs to file update Lifeline offerings). American Broadband responded to the Order and filed information about its updated offering.

¹¹ *In the Matter of an Inquiry into Local Competition, Universal Service, and the Non-Traffic Sensitive Access Rate*, Adm. Case No. 355 (November 26, 1997).

¹² *See In the Matter of Lifeline Reform*, Adm. Case No. 2012-00146 (May 1, 2012) (maintaining KUSF at \$3.50 per line even though FCC eliminated the Tier III support payments originally designed to encourage states to provide matching).

Lifeline.¹³ By confirming American Broadband is eligible for state low income fund support as a wireless ETC, the Commission will be advancing the Act's goal of ensuring universal access to quality telecommunications services at affordable rates.¹⁴ As the FCC noted last year,

[M]any states administer their own low-income programs designed to ensure that their residents have affordable access to telephone service and connections. These activities provide the states the opportunity and flexibility to develop new and innovative ways to make the Lifeline program more effective and efficient, and ultimately bring recommendations to the Commission for the implementation of improvements on a national scale.¹⁵

III. CONCLUSION

As an ETC American Broadband is providing wireless telecommunications services to low income customers qualified under the federal eligibility requirements for Lifeline. The KUSF is intended for support of carriers participating in the federal Lifeline program. The Commission should promptly confirm American Broadband may seek KUSF reimbursement for Lifeline services it provides in Kentucky on or after December 2, 2016.

Respectfully Submitted,



Date: December 5, 2016

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*Counsel for American Broadband and
Telecommunications Company*

¹³ *In the Matter of Lifeline and Link Up Reform and Modernization et al.* FCC 15-71, 30 FCC Rcd 7818, Further Notice of Proposed Rulemaking, ¶ 128 (June 22, 2015) (“*Lifeline Reform FNPRM*”).

¹⁴ See 47 U.S.C. § 254(b)(1) and (3).

¹⁵ *Lifeline Reform FNPRM*, ¶ 2 (footnote omitted).