

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Promoting Telehealth and)	WC Docket No. 17-310
Telemedicine in Rural America)	

MOTION FOR LEAVE TO SUPPLEMENT GCI APPLICATION FOR REVIEW

Tina Pidgeon
Christopher Nierman
GCI COMMUNICATION CORP.
1900 L Street, NW, Suite 700
Washington, DC 20036
(202) 457-8815

John T. Nakahata
Jennifer P. Bagg
Timothy J. Simeone
Courtney Miller
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street, NW
Washington, DC 20036
(202) 730-1300

Counsel for GCI Communication Corp.

January 29, 2019

GCI Communication Corp. (“GCI”) respectfully requests that the Federal Communications Commission (“Commission”) grant GCI leave to supplement its Application for Review (“AFR”) of the Wireless Competition Bureau’s decision (“Bureau Decision”) to prescribe rates at levels \$28 million below those established through competitive bidding.¹ This supplement satisfies the Commission’s requirements for late-filed pleadings because it raises arguments of which GCI could not have been aware within the 30-day deadline.²

The Commission’s rules required GCI to file its AFR and any supplement by November 9, 2018. After that deadline, however, the Bureau took further actions directly giving rise to the arguments that GCI now advances in its proposed supplemental filing. *First*, on November 30, 2018, USAC informed GCI that it had denied seventeen funding requests submitted by GCI’s HCP customers³ that had been *included* in the Bureau Decision’s rate-of-return calculations. As further set forth in GCI’s proposed supplement, however, these amounts need to be *excluded* from that rate-of-return calculation or else GCI must receive an additional bad-debt expense, since the healthcare provider is unlikely to be able to pay. In the absence of such an adjustment,

¹ Letter from Elizabeth Drogula, Deputy Div. Chief, Wireline Comp. Bur., to J. Nakahata & J. Bagg, Counsel for GCI (Oct. 10, 2018). The Bureau Decision was released to the public on January 2, 2019, as an attachment to the Public Notice seeking comment on GCI’s Application for Review of the Decision. *See Promoting Telehealth and Telemedicine in Rural America*, Public Notice, DA 19-8, WC Docket No. 17-310 (rel. Jan. 2, 2019).

² *See Blanca Telephone Company Seeking Relief from the June 22, 2016 Letter Issued by the Office of the Managing Director Demanding Repayment of a Universal Service Fund Debt Pursuant to the Debt Collection Improvement Act*, Memorandum Opinion & Order and Order on Reconsideration, 32 FCC Rcd. 10,594, 10,603 ¶ 26 (rel. Dec. 8, 2017) (“In general, we will deny consideration of late-filed pleadings that raise arguments and facts that could have been presented within the 30-day deadline. We have the discretion, however, to grant leave to file late pleadings where equities so require and no party would be prejudiced thereby.”).

³ The denials were for the following FRNs: 17108341, 17149571, 17149951, 17149961, 17149971, 17151261, 17151291, 17208471, 17208491, 17208541, 17208551, 17208571, 17208601, 17208611, 17208621, 17208701, and 17274531.

the Bureau's post-deadline decision to deny these funding requests renders its rate-of-return calculation irrational.

Second, the Bureau failed to provide GCI the figures underlying the Bureau's cost analysis of GCI's TERRA network until December 14, 2018, and had attached neither the Bureau's final computations for the TERRA or satellite-based rural rates to the Bureau Decision. These figures revealed a mismatch between the time period that the Bureau used for revenues and the time period that it used for costs, which affected the Bureau's prescription of both satellite and TERRA-based rural rates. Once again, without an adjustment such that the analysis utilizes costs and revenues from the *same* time period, the Bureau's analysis is irrational and cannot be upheld on review.

Clearly, GCI could not have advanced these arguments in its AFR, since the necessary information was not released by the Bureau until after the filing deadline. These new arguments—further articulated in the attached supplement—thus undoubtedly meet the legal standard for leave to supplement a pleading, and the Commission should grant GCI leave to file.

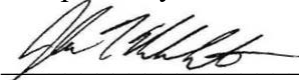
CONCLUSION

The Commission should grant GCI leave to file the attached supplement to its AFR, raising arguments arising from post-deadline actions by the Bureau.

Tina Pidgeon
Christopher Nierman
GCI COMMUNICATION, CORP.
1900 L Street NW, Suite 700
Washington, DC 20036
(202) 503-2851

January 29, 2019

Respectfully submitted,



John T. Nakahata
Jennifer P. Bagg
Timothy J. Simeone
Courtney Miller
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street NW, 8th Floor
Washington, D.C. 20036
(202) 730-1300

Counsel for GCI Communication Corp.