

April 20, 2018

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: Connect America Fund, WC Docket No. 10-90;
Connect America Phase II Challenge Process, WC Docket No. 14-93 --
Alaska Communications Locations In Partially-Served Census Blocks

Dear Ms. Dortch:

Alaska Communications Systems Group, Inc. (“Alaska Communications”), through its undersigned counsel, respectfully requests that this letter and the enclosed materials be associated with Alaska Communications’ filing in WC Docket No. 14-93 of geocoded information for 6,056 customer locations in partially-served high-cost census blocks, intended as eligible locations under the requirements applicable to Connect America Fund (“CAF”) Phase II support.¹

Summary

As explained below, General Communication, Inc. (“GCI”), the only party to challenge ACS’s proposed locations in partially-served census blocks, fails to establish that it serves any of these locations. GCI fails to provide persuasive evidence that it serves any of the locations addressed in its filing, fails to document the locations it does serve, and fails to establish why having facilities “near” the relevant locations should be viewed as adequate proof of service.

Conversely, GCI fails to claim locations as served that it previously reported as served to the Commission, disqualifying those census blocks from Alaska

¹ See *Connect America Fund*, WC Docket No. 10-90, Order, 31 FCC Rcd 12086, n. 89 (2016) (*Alaska Communications CAF II Order*). In exchange for this deployment, Alaska Communications will continue to receive \$19.69 million per year through 2025. See *id.*

Communications' CAF Phase II deployment, and raising doubt about the accuracy of GCI's reporting and tracking capabilities.

GCI also fails to establish that it is an unsubsidized competitor at any of the proposed locations. To the extent that it actually serves any of them, GCI may be presumed to do so as a subsidized competitor, as nothing in its filing rebuts this conclusion.

Accordingly, GCI fails to state a basis on which the proposed locations may be disqualified, and the proposed locations should be deemed eligible for CAF Phase II support.

Background

The *Alaska Communications CAF II Order* requires Alaska Communications to deploy qualifying broadband service to a total of 31,571 unserved locations in census blocks deemed eligible by the Commission.² The Order permits up to 7,900 of those locations to be in partially-served, high-cost census blocks if, after a challenge process, and based on recently available 477 data, the targeted locations are determined to be, in fact, unserved by an unsubsidized competitor.³

Alaska Communications was required to submit a geocoded list of its proposed locations in partially-served census blocks "as soon as possible, but no later than October 1, 2018."⁴ On December 28, 2017, Alaska Communications filed in WC Docket No. 14-93 the required geocoded information for 6,056 customer locations (found at 4,762 unique sets of coordinates, as some locations are in multi-unit buildings).⁵

The census blocks in question are high-cost census blocks, as identified by the Commission. They have been found by Alaska Communications to be only partially served. Alaska Communications desires to use CAF Phase II support to serve the proposed locations within these census blocks, providing voice and broadband meeting the CAF II standards, because the customers at these locations should not be left behind but should receive service at the same levels as other customers in high-cost areas, and Alaska Communications believes it can deploy service at the identified locations efficiently, both purposes the Commission expressly has approved.⁶

² *Id.* ¶32.

³ *Id.* ¶32.

⁴ *Id.* ¶36 & n. 89.

⁵ See Letter from Ruth L. Willard, Alaska Communications, to Marlene H. Dortch, FCC Secretary, in WC Docket Nos. 10-90, 14-93 (filed Jan. 3, 2018) (describing filing of geocoded location information with census block identifications in WC Docket No. 14-93 on Dec. 28, 2017).

⁶ *Alaska Communications CAF II Order* ¶33 (acknowledging that efficient network build-out may not align with census block boundaries, and acknowledging that the FCC itself

GCI's Challenge

On February 5, 2018, the Wireline Competition Bureau (the “Bureau”) initiated a challenge process in connection with these locations, inviting service providers that qualify a unsubsidized competitors to notify the Commission if they already serve the specific locations identified by Alaska Communications in the filing just described, with service meeting the Commission’s voice and broadband requirements, including broadband service at 10 Mbps or higher to each location.⁷ One service provider, GCI, filed such a challenge.⁸ For the reasons described below, GCI’s proffered challenges fail to state an adequate basis to deem any of the subject locations ineligible for CAF II support.

GCI Fails To Establish That It Serves the Specific Proposed Locations

In its challenge, GCI suggests that it serves 3,099 of the locations proposed by Alaska Communications but offers two different explanations of this “service,” each of which is unpersuasive. GCI identifies 1,605 locations where it claims residents “are actually subscribed to GCI’s internet service,”⁹ but GCI provides no reliable evidence that this is the case. GCI identifies 1,494 additional locations where it admittedly provides no service but which allegedly “are located within the boundaries of properties to which GCI current [*sic*] offers service.”¹⁰ In neither category has GCI filed sufficient evidence of its “service” to render the locations ineligible for CAF II.

To render a location ineligible for CAF II purposes, the Commission requires a challenger to demonstrate that it, in fact, *serves* them at levels meeting the Commission’s standards for unsubsidized competitors.¹¹ GCI’s challenge categorically fails to meet this threshold.

encouraged proposals that would help ensure that unserved customers in partially-served census blocks are not left behind).

⁷ *Wireline Competition Bureau Commences Alaska Communications Systems Connect America Fund Phase II Challenge Process*, Public Notice, WC Docket No. 10-90, DA 18-92 (WCB rel. Feb. 5, 2018). and the Commission’s rules.

⁸ General Communication, Inc.’s Challenge to Alaska Communications Systems’ Proposed Eligible Locations In Partially Served Census Blocks, WC Docket Nos. 10-90 & 14-93 (filed 22, 2018) (“GCI Challenge”).

⁹ GCI Challenge at 6.

¹⁰ *Id.* at 4.

¹¹ *Alaska Communications CAF II Order* ¶36. For CAF purposes, an “unsubsidized competitor” must provide voice and broadband services without high-cost support. For CAF Phase II recipients, “broadband” means service provided at speeds of 10/1 Mbps or greater, with latency suitable for real-time applications, with usage limits reasonably comparable to those in urban areas, and pricing reasonably comparable to those in urban areas. *See* 47 C.F.R. §§54.5, 54.309.

For customers actually served by GCI, the cable company ought to be able to provide concrete evidence – one would reasonably assume GCI knows the addresses of its customers and the level of service it provides to each – but GCI fails to demonstrate either the actual location of its broadband facilities or the addresses reached by these facilities. GCI ought to, but does not, offer a depiction of the actual coverage of its network, or any persuasive evidence that its network capabilities meet the Commission’s standards for speed, capacity, latency and price at the locations proposed to be served by Alaska Communications. Instead, GCI asks the Commission to take its word that its “internal company data” demonstrates adequate service to the subject locations.¹² Such data is unpersuasive and should not be relied upon as evidence of GCI “service” meeting FCC criteria.

First, GCI argues that it “reviewed” its own node boundary data. GCI does not furnish this data, nor a map of the node locations and coverage areas. Rather, GCI asserts that “this data reflects the specific properties past which GCI has physically run coaxial cable terminating at that node.”¹³ This vague assertion sheds no light on the capability of GCI’s network in terms of distance from any particular node, nor in terms of directionality. For example, if a node were located at one end of a road where proposed locations are found, it is impossible to know from GCI’s filing whether that node actually serves all the locations on that road. GCI’s simply asserting that its internal node boundary data are “reliable” evidence of the areas where it provides qualifying service fails any minimum evidentiary standard.

Similarly, GCI asserts that it offers service with speeds in excess of 10/1 Mbps “to each of these locations.”¹⁴ However, GCI provides no evidence that it offers the required level of service to *any* of specific locations identified by Alaska Communications as unserved. The maps offered as GCI Attachment D simply plot the ACS locations on census blocks, with areas ostensibly “reached” by GCI’s network shaded, but GCI provides no information about the actual location of any customers currently receiving service from GCI, the actual location of GCI’s existing facilities, nor the capability of those existing facilities to reach customer locations with qualifying 10/1 Mbps service. Without such specific network information, GCI has failed to provide persuasive evidence in support of its challenge.

The Commission must view with skepticism the assertion that GCI actually serves any of the customers Alaska Communications has identified as unserved in these partially-served census blocks. GCI never offers a list of customer addresses matching the geocodes provided by Alaska Communications. Rather, GCI describes a process of comparing “geospatial data maintained by local governments, to obtain geocoded coordinates of each address *in the vicinity of* a proposed ACS location.”¹⁵ GCI never offers persuasive evidence, however, that the actual locations ACS proposes to serve are, in fact, locations currently served by GCI. The list of addresses “in the vicinity of proposed ACS locations” were compared to locations where GCI says it offers 10/1 Mbps broadband Internet service, but it is far from clear whether any of the

¹² GCI Challenge at 3.

¹³ *Id.* at 4.

¹⁴ *Id.* at 5.

¹⁵ *Id.* (emphasis added).

GCI locations are the same as locations that Alaska Communications listed.

GCI's proffered expert, Ian Moore, testifies that he attempted to find street addresses "nearest" to the lat/long coordinates furnished by Alaska Communications for its proposed locations, using a database called OpenAddresses, but admitted, "the nearest location ranged in distance from the ACS proposed locations from zero meters to 169 meters."¹⁶ At least in some cases, according to GCI's expert, the "nearest location" is not "near" at all – 169 meters is more than 550 feet, or nearly the length of two football fields stacked end-to-end.

It would be highly unusual for any customer location in the areas targeted by Alaska Communications to be accessible beyond 100 meters (328 feet) with a simple connection to an existing node. Distances of 100 meters or more typically require erecting poles or burying cable. Even 100 meters can be too long for an economical broadband drop, depending on the actual location of the building to be served relative to GCI's existing physical plant. GCI's offer of proof fails to meet the basic requirement that GCI demonstrate it not only might be able to serve, but does, in fact, serve the locations in question.

To the extent that GCI relies on internal node boundary data and parcel boundaries, it appears that GCI has an inaccurate overview of its own actual coverage capability. For example, GCI data apparently shows that it has a node reaching part of a parcel in a census block targeted by Alaska Communications, but *no customers* (or even any structures) are located in that portion of the parcel. Thus, such coverage capability is irrelevant to the question whether GCI "serves" locations where customers actually are located in the census block in question. In fact, Alaska Communications believes this is the case in at least one census block outside of Fairbanks, near North Pole, where GCI shows network "coverage" of a partial parcel in a partially-served census block listed by Alaska Communications, but no structures are located in the portion of the parcel located in the targeted census block – it is an empty lot.¹⁷ Who, then, does GCI "serve" there?

In the days since GCI filed its challenge, Alaska Communications has had limited ability to research GCI's claimed "service" in the proposed locations, but even in that limited timeframe found a number of inaccuracies in GCI's filing. If the Commission intends to disqualify any of these locations, it should do so only based on actual coverage maps, derived from the location of GCI's existing network facilities and real customer addresses, not vaguely defined data analysis, which is all GCI has offered.

GCI's imprecisely worded description of its methods and the locations it serves may simply be inartful, or may be designed to obfuscate, but in either case GCI has failed to substantiate any actual overlap between qualifying voice and broadband service actually being provided by GCI and the locations Alaska Communications has identified as unserved as of the last available 477 filing – which is the relevant issue.

¹⁶ *Id.*, Att. B., Declaration of Ian Moore ¶¶6.

¹⁷ *See* Exhibit 1 (map of census block no. 020900019005029 which GCI purports to "serve," with no actual customer locations in the portion covered by GCI's network).

The Commission should not disqualify any locations based merely on GCI's unsubstantiated claims that it now "serves" these locations. Indeed, GCI's challenge is entirely devoid of time frame: Does it allege that these locations were served at the time the June 2015 Form 477 data was filed,¹⁸ and simply were not reported as served, or does GCI claim they have been served since the date of GCI's filing, or were they served at some other time?

Conversely, GCI's Form 477 data also alleged customers in census blocks that, in this challenge filing, GCI does not claim to be serving. To date, for example, Alaska Communications has identified six census blocks that GCI claimed on its most recent FCC Form 477 to be serving, that lack such capability according to the maps GCI provided in its challenge filing.¹⁹ As the maps GCI provided in the challenge proceeding were incomplete, Alaska Communications believes a state-wide comparison of such maps with GCI's Form 477 filings would likely result in the identification of additional census blocks improperly claimed as "served" by GCI.

Did GCI overstate its service territory when it filed its Form 477, which precluded Alaska Communications from identifying those census blocks as unserved for CAF II purposes? Or is GCI's analysis in this challenge filing inaccurate? In either case, the Commission should not rely upon GCI's vague description of its available service.

In addition, census blocks GCI identified as "served" on its Form 477 filings appear now to contain hundreds of unserved customer locations – so far Alaska Communications has identified nearly 400 such locations in 35 census blocks – in and around Fairbanks and the Kenai peninsula that Alaska Communications could have put on its list of proposed CAF II high-cost locations in partially served census blocks.²⁰ As Alaska Communications sees it, this represents hundreds of customers that will not have access to broadband service as a direct consequence of GCI's sloppy practices.²¹ While these numbers may not appear large to the Commission, it is precisely because these unserved areas are so sparsely populated that they have become isolated, without realistic hope of gaining access to broadband capability unless a provider with targeted resources such as CAF II support is able to reach them.

¹⁸ Alaska Communications was instructed to select the unserved census blocks it intends to serve with CAF II support based on data contained in the June 2015 Form 477 filings. *Alaska Communications CAF II Order* ¶30.

¹⁹ See Exhibit 2.

²⁰ See Exhibit 3 (383 locations Alaska Communications has newly identified as actually unserved around Fairbanks and the Kenai Peninsula).

²¹ Indeed, Alaska Communications believes there may be as many as 161 more customer locations in and around North Pole, Alaska (outside Fairbanks) that are unserved, but that could not be identified prior to GCI's challenge filing because available Form 477 data suggested they were already served (whereas GCI's challenge filing seems to contradict this conclusion). See Exhibit 4. With the 383 Fairbanks and Kenai locations noted above, Alaska Communications would have been able to identify 544 additional CAF II-eligible locations, if it had timely access to this information. This is yet another example of how GCI's inconsistent statements about its service territories are harmful to the policies promoted by the Commission's CAF II program.

Geo-location is difficult and time-consuming precisely because of the variability of conditions – no more so than in Alaska. Customer locations not found at any street address but “off the grid,” customer locations whose geo-coordinates are misstated in state or local databases, customers reachable only by satellite -- all are common in rural Alaska. For these reasons, Alaska Communications has devoted substantial resources for the better part of two years gathering accurate information on potential customer locations for CAF purposes– and correcting state databases in many cases.

It does not appear that GCI has devoted anything close to the same effort to identify its customers. Indeed, GCI’s inconsistent records and reporting have probably cost hundreds – if not thousands – of Alaska residents in rural, high-cost areas the hope of gaining access to high-speed broadband in the foreseeable future, preventing Alaska Communications from including them in its plans for CAF II deployment. The Commission should not reward GCI by deeming ineligible the unserved households it has challenged – these Alaskans will not have access to broadband if Alaska Communications is not permitted to include them in its CAF Phase II build-out plan.

The Commission should find that GCI has failed to meet the burden of producing credible evidence that it “serves” any of the locations proposed by Alaska Communications in partially-served, high-cost, census blocks. GCI’s statements, which are inconsistent at best and misleading at worst, should not be the basis of decisions precluding CAF II support to thousands (or even hundreds) of customers that could benefit from the broadband deployment CAF II supports. The locations in question should be deemed eligible for CAF II-supported service and Alaska Communications should be permitted to proceed accordingly.

GCI Is Not An “Unsubsidized” Competitor

Still another basis for denying GCI’s challenges is that, to the extent it may serve any of the locations proposed by Alaska Communications in the partially-served census blocks in question (which Alaska Communications does not believe that it does), GCI fails to establish that it is an unsubsidized competitor.

CAF Phase II is intended to support voice and broadband service at locations *not* served by an *unsubsidized* competitor.²² “Unsubsidized competitor” is defined as “a facilities-based

²² E.g., *Alaska Communications CAF II Order* ¶35 (“the Commission decided to target Phase II support to those census blocks that are not served by an unsubsidized competitor. However, the Commission did not foreclose other ways of supporting high-cost locations within partially-served census blocks”) (footnote omitted); *id.* ¶36 (will give any existing provider the opportunity to notify ACS and the Commission that the provider already serves the identified census blocks and specific locations with service meeting the Commission’s standards for an unsubsidized competitor”); *USF/ICC Transformation Order*, 26 FCC Rcd 17663, 17722, ¶149 (2011) (“we will phase in a requirement that carriers use such support for building and operating broadband capable networks used to offer their own retail service in areas substantially unserved

provider of residential fixed voice and broadband service *that does not receive high-cost support.*”²³ As noted above, price cap carriers generally are limited to spending CAF II support in high-cost *census blocks* not served by an unsubsidized competitor. In the case of Alaska Communications, a certain number (up to 7,900) unserved *locations* nevertheless may be served if they are in partially-served high-cost census blocks (that is, partially served by an unsubsidized competitor), *unless* a challenger demonstrate that it, in fact, *serves the locations* “at levels meeting the Commission’s standards for *unsubsidized competitors.*”²⁴

In deciding to allow Alaska Communications to use CAF II support in census blocks that are partially-served by an unsubsidized competitor, the Commission recognized that, in Alaska, where unsubsidized competitors sometimes offer service in some portions of large census blocks, there are “physically isolated and distinct” locations that have remained unserved by the market, and therefore it serves the public interest to permit Alaska Communications to use CAF II support to deliver broadband capability to such locations.²⁵

The partially-served census block exception was tailored to allow Alaska Communications to deploy service using CAF II support to specifically identified locations in a limited number of census blocks that qualify as high-cost, but that would be ineligible (only) because they are partially served by an unsubsidized competitor.²⁶ The Commission allowed the use of CAF II support precisely because many *locations* themselves are unserved by an unsubsidized competitor, despite the *census blocks* being partially served by one.

GCI addresses the question whether it is an unsubsidized competitor just in a footnote. GCI states that an unsubsidized competitor “may be a high-cost support recipient in the context of this challenge.”²⁷ GCI relies on one sentence in the *Alaska Communications CAF II Order*, “We find that it is in the public interest to ensure that the locations selected are unserved by any fixed, terrestrial competitors, including those that currently receive high-cost universal service support, before allowing ACS to build and deploy services to those locations.”²⁸ This sentence,

by an unsubsidized competitor”); *id.* ¶156 (“The Commission will offer each price cap ETC a model-derived support amount in exchange for a commitment to serve all locations in its service territory in a state that, based on the model, fall within the high-cost range and are not served by a competing, unsubsidized provider”).

²³ 47 C.F.R. §54.5 (emphasis added).

²⁴ *Alaska Communications CAF II Order* ¶36 (emphasis added).

²⁵ *Alaska Communications CAF II Order* ¶35.

²⁶ *Alaska Communications CAF II Order* ¶27 (“We require ACS to offer voice and broadband service to a minimum of 31,571 locations that are not served by an unsubsidized competitor at 10/1 Mbps or better to meet its Phase II obligations, subject to the flexibility described below”); *id.* ¶32 (“we will allow ACS the flexibility to deploy to up to 7,900 locations unserved by any provider within census blocks that also have locations served by an unsubsidized competitor, which we refer to as ‘partially served census blocks,’ subject to the conditions described below”).

²⁷ GCI Challenge n. 9.

²⁸ *Alaska Communications CAF II Order* ¶36.

however, is inconsistent with the rest of the order as well as the CAF Phase II regime as a whole. In the *Alaska Communications CAF II Order*, Alaska Communications is required to use CAF II support “to offer voice and broadband service to a minimum of 31,571 locations that are not served by an unsubsidized competitor at 10/1 Mbps or better.”²⁹ If the locations, and the census blocks in which they are located, are served by a subsidized competitor, but not an unsubsidized competitor, and are “high cost” within the meaning adopted by the Commission, they qualify for CAF II. Moreover, the overall framework for CAF II support is to target areas that the market has not reached – locations that are *unserved by unsubsidized competitors*, in census blocks that are high-cost and *unserved by unsubsidized competitors*.³⁰ For GCI to be correct, the entire CAF II scheme would be impossible to implement.

GCI also attempts to distance itself from the high-cost support it continues to receive in these areas, though here, too, it is vague: “GCI receives either no high-cost support or is receiving phased-down high-cost support as a fixed CETC.” This is a strange statement, given that GCI’s “commitment” to relinquishing its high-cost CETC support for fixed wireline service was an underlying basis for the wireless CETC support awarded to GCI in the *ATA Plan Order*.³¹ However, GCI does not identify which locations it serves with high-cost support, and which, if any, it serves without support. Nor does it explain why “phased down support” should not be considered high-cost support. As such, the Commission must assume that, to the extent it finds credible any of GCI’s claims to serve any of the proposed locations, GCI has failed to show that it is an unsubsidized competitor at any location, and thus its challenge is ineffective.

Conclusion

For the foregoing reasons, GCI’s proffered challenges fail to state an adequate basis to deem any of the subject locations ineligible for CAF II support. GCI does not establish that it is an unsubsidized competitor, nor that any of the locations proposed by Alaska Communications, in fact, are served by an unsubsidized competitor, or indeed, that they are “served” at all. Merely asserting that locations are served, without offering any credible foundation, fails to meet any minimum evidentiary standard.

Moreover, GCI’s showing appears to be full of inaccurate information, or at least information that is inconsistent with its prior reports to the Commission on FCC Form 477. GCI’s unsubstantiated challenge should not be permitted to form the basis of denying CAF II-supported broadband eligibility in thousands of high-cost locations in Alaska that truly have no other access to broadband at this time.

Accordingly, the Bureau should deny the GCI challenge and find that the proposed

²⁹ *Alaska Communications CAF II Order* ¶27.

³⁰ *See supra*, note 22.

³¹ *Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, ¶38 (2016).

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locations are eligible for service by Alaska Communications using CAF Phase II support. Expedited action on this request will facilitate CAF-supported broadband deployment in high-cost areas of Alaska.

Please direct any questions concerning this matter to me.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Karen Brinkmann".

Karen Brinkmann

Counsel for Alaska Communications

cc: Rebekah Douglas, Telecommunications Access Policy Division
Alex Minard, Deputy Chief, Telecommunications Access Policy Division