

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

In the Matter of	)	
	)	
Petition of U S Telecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. §160(c)	)	
	)	
Regulation of Business Data Services for	)	WC Docket No. 17-144
Rate-of-Return Local Exchange Carriers	)	
	)	
Business Data Services in an Internet	)	WC Docket No. 16-143
Protocol Environment	)	
	)	
Special Access for Price Cap Local	)	WC Docket No. 05-25
Exchange Carriers	)	
	)	
AT&T Corporation Petition for Rulemaking	)	RM-10593
to Reform Regulation of Incumbent Local	)	
Exchange Carrier Rates for Interstate	)	
Special Access Services	)	

**ADDITIONAL REPLY COMMENTS OF ALASKA COMMUNICATIONS**

Alaska Communications<sup>1</sup> hereby replies to the additional focused comments submitted in the above-captioned proceedings in response to the Wireline Competition Bureau's *April 15 Public Notice*.<sup>2</sup>

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<sup>1</sup> In these comments, "Alaska Communications" signifies the four incumbent local exchange carrier ("ILEC") subsidiaries of Alaska Communications Systems Group, Inc., each subject to price cap regulation under FCC rules: ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

<sup>2</sup> Public Notice, WC Docket Nos. 18-141, 17-144, 16-143, 05-25; RM-10593, *Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave*, DA 19-281, (Wir. Comp. Bur., rel. April 15, 2019) (the "*April 15 Public Notice*") (inviting "focused public comment on the extent to which the *April Data Tables* inform the extent of competition and competitive pressure in the market for lower speed (DS3 and below) time division multiplexing (TDM) transport services in price cap areas"). As used in the *April 15 Public Notice*, as with the *BDS Second FNPRM*, "TDM-based transport services" includes all non-packet-switched inter-office incumbent local exchange carrier (ILEC) transmission services as well as the ILEC service known as "IXC channel terminations" (connecting an interexchange carrier network to an ILEC network) but not end-user channel terminations. See *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers, et al.*, WC Docket No. 17-144, Report and Order,

### **Discussion**

Based on the record in these proceedings, Alaska Communications continues to urge the Commission to reaffirm its 2017 decision to forbear from *ex ante* price regulation and tariffing requirements for TDM-based transport services nationwide. While the *April Data Tables* are based on Alaska data that are substantially out of date, and were incomplete even when collected, their inescapable conclusion is that TDM-based transport services in the state are overwhelmingly subject to competition. With TDM-based transport services being steadily supplanted by packet-based substitutes, there is no public interest justification for re-imposing these antiquated regulations.

Contrary to the claims that the *April Data Tables* show “no semblance of competition . . . in many parts of the country,”<sup>3</sup> the overwhelming majority of TDM-based transport services are subject, both to competition from other providers and from more modern packet-based substitutes. In support of their claims of insufficient competition for these services, Sprint and INCOMPAS argue that the *April Data Tables* show that 24 percent of ILEC wire centers are not located within ½ mile of competitive fiber.<sup>4</sup> This statistic is misleading at best, and certainly cannot support the heavy weight of regulatory intervention those parties urge on the Commission.

*First*, the Commission should look beyond the data in the *April Data Tables* to assess the full competitive landscape as it currently exists. The Commission’s special access data collection

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Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, FCC 18-146, 33 FCC Rcd 10403 (2018), at ¶147 and n.369 (“*BDS Second FNPRM*”).

<sup>3</sup> Sprint Corporation (“Sprint”) Comments at 1; *see also* INCOMPAS Comments at 3. (References to party comments in these Reply Comments refer to those filed on or about May 10, 2019 in response to the *April 15 Public Notice*, unless otherwise noted.)

<sup>4</sup> Sprint Comments at 7; INCOMPAS Comments at 3.

was never complete for Alaska, even when collected. As observed in the company's initial comments on the *April Data Tables*, at least three Alaska Communications wire centers – Port Alsworth, Pedro Bay, and Nondalton – are located in communities served since at least 2010 by the fiber portion of the TERRA middle mile network owned by GCI Communication Corp. (“GCI”).<sup>5</sup> Other wire centers, like Sitka, Akhiok, Ouzinkie, and Larsen Bay, are located on islands served *not* Alaska Communications fiber, but *only* by undersea fiber owned by a non-ILEC, GCI. This means that the ILEC is itself dependent on access to its competitor's facilities for its ability to offer service. Finally, Alaska Communications field engineers have also confirmed the presence of GCI fiber in still other wire centers, such as Fort Greely. Indeed, GCI itself claims that, together with its subsidiaries, it “covers more of Alaska's population through its telecommunications network than any other provider in the State.”<sup>6</sup>

*Second*, the data in the *April Data Tables* are now too stale to represent a sound basis for regulatory decisions in any event. As the Commission recognized three years ago, the data collection provided only a “one-time snapshot of the BDS marketplace for 2013,” but the “industry continues to change . . . and so will the state of competition.”<sup>7</sup> Alaska Communications agrees with Frontier Communications that competitive providers have not stood still in the market for the past six years.<sup>8</sup> In addition, the Commission and other government agencies have committed billions of dollars in state and federal universal service

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<sup>5</sup> Alaska Communications Comments at 3.

<sup>6</sup> *Unlicensed Use of the 6 GHz Band*, ET Docket No. 18-295, Comments of GCI Communication Corp., at 8 (filed Feb. 15, 2019).

<sup>7</sup> *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143, Tariff Investigation Order and Further Notice of Proposed Rulemaking, FCC 16-54, 31 FCC Rcd 4723 (2016), at ¶ 522.

<sup>8</sup> See Frontier Comments at 2.

support and grant awards for the construction of rural broadband facilities, including for middle mile transport where needed. These investments have undoubtedly expanded the reach of competitive transport facilities, the lifeblood of broadband Internet access service, far beyond what was available in 2013.

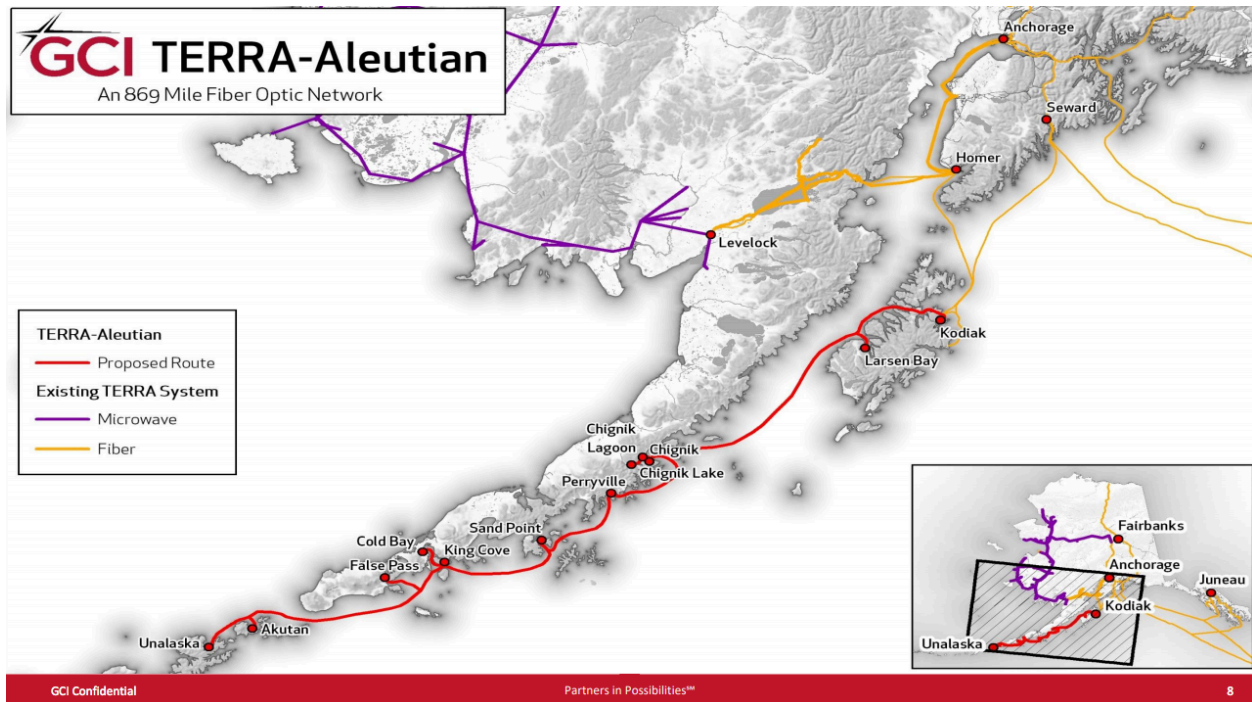
In Alaska alone, the Commission has committed approximately \$1 billion for broadband deployment under the so-called “Alaska Plan,” including last mile upgrades and middle mile transport facilities by rural ILECs, CLECs, and their wireless service provider affiliates.<sup>9</sup> Some of this support will undoubtedly enable expanded deployment of competitive fiber and other transport facilities. As but one example, GCI has unveiled plans to deploy new undersea fiber optic cables as “AU-Aleutian,” formerly known as “TERRA-Aleutian,” which could reach Chignik Bay, Chignik Lagoon, Chignik Lake, Perryville, False Pass, Akutan, and other communities served by Alaska Communications, as soon as next year.<sup>10</sup> The planned route is shown as follows:<sup>11</sup>

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<sup>9</sup> See, e.g., *Connect America Fund*, WC Docket No 10-90, *Ex Parte* Letter of Alaska Telephone Association (filed May 9, 2016), at 39 (proposal of General Communications Corporation to use substantial federal Connect America Fund high cost support to deploy 4G mobile data services using satellite backhaul), available at: <https://ecfsapi.fcc.gov/file/60001841040.pdf>.

<sup>10</sup> See, e.g., GCI Communication Corp., “Amended and Restated Application for Cable Landing License,” File No. SCL-LIC-20171031-00024 (filed Aug. 1, 2018); Submarine Cable Map, “TERRA-Aleutian,” available at <https://www.submarinecablemap.com/#/submarine-cable/terra-aleutian> (visited May 28, 2019).

<sup>11</sup> Slide Deck, “GCI Investing in Alaska,” at 8, available at: <https://swamc.org/wp-content/uploads/2018/03/8.1-Dan-Boyette.pdf> (visited May 28, 2019).



Aside from these terrestrial deployment plans, the Commission in recent years has authorized the deployment of numerous competing Low Earth Orbiting satellites constellations, which are expected to make low-latency connectivity, including transport services for carrier backhaul, ubiquitously available, even in the smallest and most geographically remote communities.<sup>12</sup> Because these constellations offer ubiquitous global coverage, they can readily

<sup>12</sup> See, e.g., Telesat Canada Petition for Declaratory Ruling to Grant Access to the U.S. Market for Telesat's NGSO Constellation, IBFS File No. SAT-PDR-20161115-00108, Call Sign S2976, Order and Declaratory Ruling, FCC 17-147, 32 FCC Rcd 9663 (2017) (117-satellite constellation); WorldVu Satellites Limited, Petition for Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System, Order and Declaratory Ruling, FCC 17-77, 32 FCC Rcd 5366 (2017); Space Exploration Holdings, LLC Request for Modification of the Authorization for the SpaceX NGSO Satellite System, IBFS File No. SAT-MOD-20181108-00083, Call Signs S2983 and S3018, DA 19-342 (Int. Bur., rel. Apr. 26, 2019) (4,409-satellite constellation); OneWeb Press Release, "OneWeb Makes History as First Launch Mission Is Successful (Feb. 28, 2019), available at: <https://www.oneweb.world/newsroom/oneweb-makes-history-as-first-launch-mission-is-a-success> (with successful initial launch, anticipating 650 satellites in orbit by 2020 and full global commercial OneWeb coverage by 2021).

overcome whatever barrier to entry the size of any individual geographic market or the cost of deploying competitive terrestrial transport facilities to reach it might present, representing another ubiquitous competitive alternative to TDM-based transport services.

*Third*, a review of Alaska Communications sales records reveals that market demand in its service area for TDM-based transport services correlates closely with the wire centers where competitive fiber is present or that have been targeted for near-term competitive entry. Current (May 2019) demand figures reveal that *all* of the demand for DS-3 TDM-based transport services and more than one-third of the demand for DS-1 TDM-based transport services that Alaska Communications provides to unaffiliated customers was concentrated in the wire centers listed in the *April Data Tables* as within ½ mile competitive fiber, together with those Alaska Communications has identified above where competitive fiber is now available or is expected to be deployed in the near-term future.<sup>13</sup> Based on this analysis, only several dozen Alaska Communications DS-1 circuits (full or partial) remain in areas without a currently- or imminently-available alternative, and even those areas will, at a minimum, soon gain access to transport over one or more LEO satellite-based platforms.

Furthermore, the Commission has already found that TDM-based transport services are steadily being supplanted in the market by packet-based BDS substitutes.<sup>14</sup> Alaska

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<sup>13</sup> See also Frontier Comments at 3 (highlighting that, “[i]f one could weight the wire centers [that are within a half mile of competitive fiber] based on actual percentage of transport traffic, the percentage of overall transport at these wire centers would undoubtedly be significantly higher”); CenturyLink Comments at 3, 9 (same).

<sup>14</sup> *Business Data Services in an Internet Protocol Environment*, WC Docket No. 16-143, Report and Order, FCC 17-43, 32 FCC Rcd 3459 (2017) (the “2017 BDS Order”), at ¶ 25, *aff’d in part, vacated and remanded in part sub. nom Citizens Telecomms. of Minn., LLC v. FCC*, 901 F.3d 991 (8<sup>th</sup> Cir. 2018).

Communications has confirmed this trend empirically in Alaska. In the wire centers discussed above, between January 2016 and May 2019, Alaska Communications has seen demand for DS-1 TDM-based transport services decline by 31 percent, while demand for DS-3 TDM-based transport services has declined by 46 percent.

In this regard, Alaska Communications agrees with Sprint and INCOMPAS that the level of customer demand for TDM-based transport services is vital to the Commission's analysis.<sup>15</sup> In Alaska, most of the wire centers that lack competitive fiber within ½ mile are in remote Bush communities. These communities have populations of between a few dozen and a few hundred people. They are served by Alaska Communications with a single local switch. There is no demand for more than the bare minimum level of channel termination TDM-based transport service needed for an IXC to interconnect with the local network. Interoffice transport services are irrelevant, because these communities have only one ILEC wire center. And, in any event, Alaska Communications does not own the long-haul transport facilities needed to connect its wire centers in these remote communities to national or global communications networks. Those facilities generally are owned by an interexchange carrier, such as AT&T or GCI.

Plainly, there is no public interest justification for re-imposing the substantial burden of *ex ante* price regulation and tariffing of TDM-based transport services on such a small (and shrinking) slice of the market for business data services. Re-imposing those regulations would cause the costs of compliance to be borne by those few TDM-based transport services that would

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<sup>15</sup> Sprint Comments at 4 (complaining that, the *April Data Tables* “fail to provide any information about the demand that would be available if the Reporting Carrier were to engage in the capital-intensive effort of constructing new facilities”); INCOMPAS Comments at 11 (same).

be subject to them, raising the cost of providing those services dramatically, to the detriment of the interexchange carriers that purchase them, as well as their end user subscribers.

Rather, the Commission should allow the market to continue its ongoing transition from TDM to packet-based services without interference. As demand for TDM-based transport services continues to recede, and as additional competitive alternatives continue to emerge, the question of whether or how the price of those services should be regulated for price cap ILECs will fade naturally into the recesses of history.



**Conclusion**

The record developed in response to the *April 15 Public Notice* continues to show that there is no public interest need for the Commission to re-impose *ex ante* price regulation and tariffing requirements on ILECs' TDM-based transport services. Thus, for the reasons stated above, and in Alaska Communications' prior filings in these proceedings, the Commission should decline to re-impose *ex ante* regulation of the rates, terms, and conditions of price cap LECs' TDM-based transport services nationwide, and forbear from the tariffing requirements of Section 203 of the Communications Act with respect to these services.

Respectfully submitted,

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