

July 16, 2018

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

Re: Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

The *Alaska Communications CAF II Order* in the above-reference docket¹ requires Alaska Communications to deploy qualifying broadband service to a total of 31,571 unserved locations in census blocks deemed eligible by the Commission. The *Order* also permits that up to 7,900 of those locations may be in partially-served census blocks if, after a challenge process, and based on recently available 477 data, the targeted locations are determined to be, in fact, unserved.² Alaska Communications is required to complete its initial deployment planning and submit to the Wireline Competition Bureau by October 1, 2018 a list of census blocks it intends to serve using CAF II support.³

With respect to the proposed locations in partially-served census blocks, in particular, Alaska Communications must submit a geocoded list of locations and census blocks “as soon as possible, but no later than October 1, 2018, along with certification of notice filed on any carrier that reports service in the relevant census block according to the most recent FCC Form 477 data available at that time, the Regulatory Commission of Alaska, and any relevant Tribal government.”⁴

¹ *Connect America Fund*, WC Docket No. 10-90, Order, 31 FCC Rcd 12086 (2016) (the “Alaska Communications CAF II Order”).

² *Id.* ¶32.

³ *Id.* ¶¶24, 43. The Commission noted that the company “may modify its location count at that time if, after completion of that initial planning, ACS determines that there is a materially different number of locations unserved by 10/1 Mbps in eligible census blocks” with a corresponding adjustment to support. *Id.*, n. 107.

⁴ *Id.* ¶36.

On December 28, 2017, Alaska Communications filed in WC Docket No. 14-93, the required geocoded information, with census block identification, for 6,056 unserved locations in partially-served census blocks at 4,762 unique pairs of lat/long coordinates (a number of locations are in multi-unit buildings).⁵ On June 15, 2018, Alaska Communications filed in WC Docket No. 14-93 the required geocoded information, with census block identification, for 4,691 additional unserved locations in partially-served high-cost census blocks at 3,252 unique pairs of lat/long coordinates (again, some locations are multi-unit dwellings).⁶ The Wireline Competition Bureau has not yet issued a decision concerning the eligibility of any of these locations.

Alaska Communications also believes that certain unserved census blocks not previously identified in the Commission's model as "high-cost" census blocks should qualify for support as census blocks having per-line costs in excess of the high-cost threshold. Moreover, other census blocks previously thought to be "partially-served" by an unsubsidized competitor have been identified as, in fact, unserved by an unsubsidized competitor and thus eligible for support.⁷ These matters have been brought to the Bureau's attention between June 18 and June 25, 2018. Eligibility of the locations in these census blocks, in addition to the unserved locations in the partially-served, high-cost census blocks discussed above, will be critical to Alaska Communications' meeting its overall CAF II location total of 31,571 locations.

In light of the time needed for the Bureau to resolve the pending census block and location eligibility questions described herein, and in order to allow Alaska Communications a reasonable amount of time in which to complete its initial planning and file its list of total proposed census blocks and locations to satisfy its CAF II deployment obligations, an extension of the October 1 deadline is hereby requested.⁸

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

⁶ This filing has not yet appeared on Public Notice. With respect to ACS's December 28, 2017 filing, over a month passed before the Bureau issued a Public Notice commencing the challenge process, and allowed 45 days for challenges. *Id.* Only one party filed a challenge.

⁷ Reply of General Communication Corp., WC Docket Nos. 10-90, 14-93 (filed May 23, 2018) at 11-12.

⁸ By this request, Alaska Communications does *not* seek an extension of the deadline set forth in paragraph 36 of the *Alaska Communications CAF II Order*, with respect to the right to propose unserved locations in high-cost, partially-served census blocks. The company has submitted two lists of such locations, plus additional census blocks it believes to be eligible but which are not yet listed as such, and accepts that the Bureau requires time in which to examine those locations and census blocks, consider any challenges, and confirm their eligibility. Rather, Alaska Communications seeks an extension only of the October 1 deadline described in paragraph 43, pertaining to completion of its initial planning of its overall CAF II build-out. *See supra*, note 3.

The Commission may waive any of its rules for good cause shown.⁹ In particular, the Commission may waive a rule where, due to special circumstances, deviation from the general rule would better serve the public interest than strict adherence to the general rule.¹⁰ In considering the merits of such a waiver, the Commission may take into account hardship, equity, or more effective implementation of overall policy on an individual basis.¹¹

In the instant case, the Commission need not waive any substantive rule, merely extend a deadline due to operational practicalities and a particular hardship that would be imposed by strict enforcement of the October 1 deadline. The purposes of the deadline will not be disserved in any way. Alaska Communications is striving to find enough locations to meet or exceed the total required by the *Alaska Communications CAF II Order*. The company has worked diligently with the Bureau and other parties to resolve open questions with respect to the nature of the census blocks in ACS's price cap territory – whether they be served or unserved, high-cost or low-cost. The Commission has acknowledged the unique construction limitations that ACS faces, and allowed the company almost two years in which to complete its initial planning, with an additional seven years in which to complete its deployment of the required services.¹² The brief extension of time requested here will not in any way interfere with the overall deployment of services in a timely manner.

Nothing in this extension of time will alter any of the deployment milestones set forth in the *Alaska Communications CAF II Order*, and the company has no intention of missing any filing deadline other than the one for which a brief extension is sought.¹³ Thus, Alaska Communications fully intends to meet the requirement to deploy CAF-compliant voice and broadband services to at least 30 percent of the total locations by December 31, 2018, as well as the subsequent milestones adopted by the Commission. It intends to meet all reporting and testing deadlines, and believes that it will be able to satisfy the Commission that it is delivering the required services in the time frame specified by the Commission. Thus, granting the requested extension of time solely for the initial plan of deployment will not be detrimental to the public interest in any way.

The company is not confident it will be able to identify a sufficient number of locations to meet its obligations under the *Alaska Communications CAF II Order* in fewer than 60 days from the resolution of the outstanding eligibility questions. Alaska Communications therefore requests 60 days in which to complete its planning of locations where it will make available CAF II-compliant voice and broadband service, *following* the resolution of open questions as to

⁹ 47 C.F.R. § 1.3.

¹⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

¹¹ *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

¹² *Alaska Communications CAF II Order*, ¶24. The order was released Oct. 31, 2016, giving ACS 23 months until the Oct. 1, 2018 planning deadline. Deployment to 100 percent of required locations must be complete by Dec. 31, 2025. *Id.* ¶44.

¹³ *Id.* ¶44.

eligible census blocks and locations.¹⁴ For example, should the Bureau resolve all open issues on or about September 14, an extension should be granted to Alaska Communications to complete its initial CAF Phase II deployment plan by November 13. Should the Bureau complete its review by October 1, an extension should be granted until November 30. Alaska Communications believes that the requested extension is reasonable and necessary for the company to comply with the deployment requirements *Alaska Communications CAF II Order* without posing any detrimental effect on the overall goals articulated by the Commission, or otherwise disserving the public interest in any way.

For the foregoing reasons, a brief extension of time as described herein is merited, and will better serve the public interest than strict adherence to the deadline initially imposed by the Commission.

Please direct any questions concerning this filing to me.

Respectfully submitted,



Karen Brinkmann
Counsel for Alaska Communications

cc: Alexander Minard
Kris Monteith
Jay Schwarz

¹⁴ If the Bureau were able to resolve these matters by August 1st, Alaska Communications believes it could satisfy the October 1st deadline. However, given the 45 to 60-day timeframe expected for the pending challenge process, plus whatever time the Bureau requires following that period in which to resolve open challenges, it now appears impossible that resolution by August 1st could be accomplished. It currently appears that the earliest the Bureau could resolve these issues will be mid-September. This will not leave sufficient time for Alaska Communications to complete all of its necessary planning by October 1st.