

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Petition of General Communication, Inc. for  
Waiver of Certain Channelization and Other  
Restrictions on Common Carrier Fixed  
Point-to-Point Operations between 6425  
and 7125 MHz

WT Docket No. 16-209

**REPLY COMMENTS OF GENERAL COMMUNICATION, INC.**

General Communication, Inc. (“GCI”) requested a geographically limited waiver that would allow it to use contiguous 60 MHz channels across the three Upper 6 GHz sub-bands to meet growing demand for high-speed, low latency Internet access in rural Alaska.<sup>1</sup> The Wireless Telecommunications Bureau sought comment on GCI’s requested waiver.<sup>2</sup>

GCI responds herein to the comments filed by the Alaska Rural Coalition (“ARC”), which does not object to GCI’s request, and Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (“EIBASS”), which objects only to GCI’s request to operate in a portion of the band. Given the unique challenges of providing service in rural Alaska, as highlighted by

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<sup>1</sup> Amended Petition of General Communication, Inc. for Waiver of Certain Channelization and Other Restrictions on Common Carrier Fixed Point-to-Point Operations between 6425 and 7125 MHz, WT Docket No. 16-209 (filed July 5, 2016) (“Petition”).

<sup>2</sup> *Wireless Telecommunications Bureau Seeks Comment on General Communication, Inc.’s Request for Waiver of Certain Requirements in the Upper 6 GHz Bands*, Public Notice, DA 16-744, 2016 WL 3573178 (June 30, 2016).

GCI in the petition and reaffirmed on the record by ARC,<sup>3</sup> the requested waiver is the only economically, technologically, and logistically feasible means by which GCI can invest to expand the capacity of its TERRA network to serve rural consumers. These facts remain undisputed and the FCC should grant GCI's requested waiver.

**I. THE COMMISSION SHOULD NOT EXPAND THE GEOGRAPHIC SCOPE OF GCI'S WAIVER REQUEST**

GCI sought authorization to deploy common carrier fixed point-to-point microwave service using wider, 60 MHz channels across the three Upper 6 GHz sub-bands in the narrowly defined area of rural Alaska that covers current TERRA microwave sites and microwave paths directly connected to those sites.<sup>4</sup> ARC "generally supports" GCI, but asked that its requested waiver be broadened to include all portions of Alaska outside of the three urban centers of Anchorage, Fairbanks, and Juneau and be granted on a carrier-neutral basis.<sup>5</sup>

GCI appreciates ARC's support for its waiver request and understands from experience the time and effort that ARC's members must devote to "investigating new licenses."<sup>6</sup> GCI supports FCC action to encourage robust use of the band by all companies serving rural Alaska. Nonetheless, the FCC cannot expand the pending waiver request so as to make it carrier-neutral and should not broaden it to cover a larger geographic area. A waiver is appropriate under the Commission's rules if "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public

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<sup>3</sup> Comments of the Alaska Rural Coalition at 2-3, WT Docket No. 16-209 (filed July 15, 2016) ("ARC Comments").

<sup>4</sup> Petition at 12-18.

<sup>5</sup> *See generally* ARC Comments.

<sup>6</sup> *Id.* at 7.

interest, or the applicant has no reasonable alternative.”<sup>7</sup> GCI’s waiver request meets this standard because it is narrowly limited to the geographic area in which GCI has a unique and pressing need for additional capacity in the Upper 6 GHz bands. In addition, GCI provided detailed information about its network deployment and future plans to demonstrate the significant public benefit of expanding capacity on the TERRA microwave backbone, and to establish that no other reasonable alternative is available.

By contrast, ARC’s requested changes do not meet the standard. ARC’s filing does not include evidence showing the requisite “unique or unusual factual circumstances” warranting an expansion of the waiver request. The ARC filing also has not shown that other viable alternatives are unavailable, and has not justified the wide geographic reach of its request. Once ARC members have a concrete plan for use, they too may request a waiver for the specific geographic areas where they would use the spectrum without interference concerns, and the Commission’s grant of GCI’s request does not foreclose such an approach. The FCC can then judge such a request on its merits to determine if it meets the standard for granting a waiver. In the meantime, GCI can and will coexist with any of ARC’s members serving areas adjacent to the TERRA network using the Upper 6 GHz bands, ensuring that GCI’s requested waiver will not have any “unintended consequences” for ARC members.<sup>8</sup> Because GCI’s requested waiver already meets the waiver standard, however, the FCC should grant it without delay.

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<sup>7</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>8</sup> ARC Comments at 2.

## **II. ACCESS TO A CONTIGUOUS UPPER 6 GHZ BAND PLAN IS CRITICAL TO THE SUCCESS OF GCI'S PROPOSAL TO EXPAND COVERAGE IN RURAL ALASKA**

Like ARC, EIBASS generally does not object to GCI's waiver request, even as it relates to portions of the Upper 6 GHz bands that GCI would share with Broadcast Auxiliary Service ("BAS") operations.<sup>9</sup> EIBASS does, however, oppose GCI's request to operate, using uniform 60 MHz channels, between 6975 and 7025 MHz. EIBASS contends that the FCC should permanently set aside these channels for exclusive BAS use, even if no licensee ever actually uses the channels and they lay fallow indefinitely. Such an outcome undermines FCC spectrum policy, and would reduce broadband access for rural Alaskans with no countervailing benefit.

BAS use of these channels in rural Alaska is hypothetical at best. GCI, however, has invested heavily throughout the state and faces a concrete and pressing need to increase TERRA backbone capacity. This additional capacity is central to GCI's ability to maintain and expand existing rural broadband deployments in the face of growing consumer demand. These terrestrial broadband connections are also essential to supporting critical telemedicine and distance learning applications in parts of the state where access to quality medical care and education might otherwise be limited.<sup>10</sup>

EIBASS nonetheless asks the Commission to bar GCI from investing in the 50 MHz between 6975 and 7025 MHz, significantly reducing TERRA network capacity relative to the contiguous band-plan GCI requested in its petition, all to leave the spectrum empty in case a theoretical BAS user might need it in the future. This would prevent GCI from using channel 8'

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<sup>9</sup> See Comments of EIBASS at 1, WT Docket No. 16-209 (filed July 15, 2016) ("EIBASS Comments").

<sup>10</sup> See Petition at 3-5.

under GCI's proposed band-plan,<sup>11</sup> reducing capacity by approximately 12%. Such a restriction would be a significant loss for rural Alaska, where the astronomical costs of building and supporting infrastructure<sup>12</sup> make every megabit precious.

EIBASS contends that limiting rural broadband is warranted, however, because a BAS licensee may need to use the channel for a breaking news event. Although EIBASS recognizes that GCI's waiver request covers a "remote, rural area,"<sup>13</sup> it contends that these channels should remain unused so that they would be free in the highly unlikely event that a major news event occurs some place along the TERRA microwave backbone, and spectrum were suddenly needed for electronic newsgathering.

But EIBASS significantly overstates the need to reserve these two BAS channels near the TERRA backbone, for several reasons. First, the odds that a major news event will occur near the TERRA backbone are extremely small. GCI's waiver request covers only areas that are among the least populated lands in the United States. Indeed, many of its towers—let alone the expanses *between* the towers—are not even accessible by road. Second, even if a major news event were to occur in the vicinity of the TERRA backbone, GCI's use of these channels should not preclude newsgathering operations because the two channels at issue are not the only BAS channels available. As EIBASS itself highlights, there are also two 25 MHz channels reserved in the 13 GHz band.<sup>14</sup> Moreover, due to the remoteness of these locations, other shared BAS channels would surely be available for electronic newsgathering in the vicinity of any news event

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<sup>11</sup> *See id.* at 13

<sup>12</sup> *See id.* at 5-9.

<sup>13</sup> EIBASS Comments at 2.

<sup>14</sup> *Id.*

that might occur in the area covered by GCI's waiver request. There are more than 40 such channels available in the 2 GHz and 13 GHz bands.<sup>15</sup>

Indeed, although EIBASS refers to these channels as "reserved" for BAS, BAS actually shares these channels with other services on a co-primary basis, including both space-to-Earth and Earth-to-space fixed-satellite operations.<sup>16</sup> In addition, some MSS operators have deployed feeder links in these channels. Globalstar, Inc. (under the name GUSA Licensee, LLC), for example, operates a mobile-satellite feeder link in these channels near Wasilla, Alaska.<sup>17</sup> Thus, BAS users must already be prepared to coordinate with other users in this band, in limited geographic areas. But GCI's waiver request, given the extreme remoteness of the TERRA backbone, will likely have even less impact on BAS users than these existing coordination needs, while delivering significant benefits to the Americans living in rural Alaska.

EIBASS also contends that GCI did not seek a waiver of rules reserving fixed use of the channels between 6975 and 7025 MHz. EIBASS is incorrect. The Commission's rules implement the reservation EIBASS refers to through the frequency assignment rules codified at 47 C.F.R. § 101.147(l), which do not provide fixed microwave channels between 6975 and 7025 MHz.<sup>18</sup> GCI specifically sought a waiver of that rule "allowing GCI to use contiguous 60 MHz

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<sup>15</sup> 47 C.F.R. § 74.602.

<sup>16</sup> 47 C.F.R. § 25.202(a)(1); *Amendment of Part 101 of the Commission's Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees*, Report and Order, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 26 FCC Rcd. 11,614 ¶ 23 (2011) ("Part 101 Amendment Order").

<sup>17</sup> *GUSA Licensee, LLC Applications to Operate Three New Feeder Link Earth Stations in Wasilla, Alaska Using the 5 and 7 GHz Frequency Bands*, Order and Authorization, 22 FCC Rcd. 66, 67 (2007).

<sup>18</sup> See also Part 101 Amendment Order at Appendix A (amending section 101.147 to expand the channels available for fixed microwave, but excluding 6975-7025 MHz).

channels across the three Upper 6 GHz sub-bands”<sup>19</sup>—i.e., from 6425-7125 MHz. GCI’s waiver petition even provided a detailed channel plan depicting its proposed operations, including operations between 6975-7025 MHz (identified in that diagram as channel 8’).<sup>20</sup> The Commission’s rules do not require GCI to separately (and redundantly) seek a waiver of both the expository language in the Commission order that gave rise to a rule and a waiver of the rule itself.<sup>21</sup> In addition to its inconsistency with the Commission’s waiver rules,<sup>22</sup> such a requirement would impose the extreme and novel burden of requiring those seeking a waiver to familiarize themselves with not only the Commission’s rules but also every FCC order that might have contained language relating to those rules. Nevertheless, for avoidance of doubt, GCI reiterates that the contiguous bands covered by its requested waiver, and where it seeks to operate, include the 50 MHz from 6975-7025 MHz.

### **III. GCI’S PETITION ADDRESSES EACH OF EIBASS’S REMAINING CONCERNS**

Except for the issues relating to GCI’s use of 6975-7025 MHz described above, EIBASS indicates that it has no objection to GCI’s request. As GCI has explained, and as EIBASS recognizes,<sup>23</sup> GCI will comply with the existing coordination requirements under 47 C.F.R. § 101.103.<sup>24</sup> GCI will work closely with a frequency coordinator, under the existing coordination

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<sup>19</sup> Petition at 12.

<sup>20</sup> *Id.* at 13.

<sup>21</sup> *See* 47 C.F.R. 1.925(a) (permitting the Commission to waive “rules”).

<sup>22</sup> *See id.*

<sup>23</sup> EIBASS Comments at 3.

<sup>24</sup> Petition at 15 n.26 & 17.

procedures, to prevent interference with other licensees who seek to operate in the Upper 6 GHz bands in close proximity to the TERRA backbone now or in the future.<sup>25</sup>

EIBASS is also correct in noting that GCI does not seek a waiver of 47 C.F.R. § 101.147(a), note 34,<sup>26</sup> which requires that fixed links in the 6875-7125 MHz band avoid the service areas of previously licensed television pickup stations.<sup>27</sup> There currently are no such licensees within the area covered by GCI's waiver request. And as the Commission observed in 2011, 7 and 13 GHz BAS "services have not been expanding geographically in recent years. Only one new BAS TV pickup license has been granted in the 7 GHz and 13 GHz bands in the past two years."<sup>28</sup> There is therefore no need for GCI to seek a waiver of this rule.

#### IV. CONCLUSION

Comments on the Commission's public notice make clear that GCI's proposed waiver is firmly in the public interest. No commenter disputes the significant need for additional high-speed Internet capacity in rural Alaska, the dramatic expense of providing it, or the fact that GCI has no other viable means to increase capacity, other than its requested waiver. Commenters raise only peripheral issues, requesting that the waiver be expanded to cover all carriers across all of rural Alaska, and that GCI be barred from operating in a portion of the band covered by its waiver request. Commenters have not established, however, that either request would be in the

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<sup>25</sup> See *supra* p. 3. This coordination process also guarantees that GCI can and will coexist with any of ARC's members serving areas adjacent to the TERRA network using the Upper 6 GHz bands. Indeed, the coordination process will ensure that any interference issues will be resolved just as they would have been without GCI's proposed waiver. This also reduces any likelihood that GCI's requested waiver will negatively impact ARC members or other operators.

<sup>26</sup> EIBASS Comments at 3.

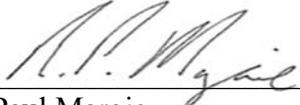
<sup>27</sup> See 47 C.F.R. § 101.147(a) n.34; Part 101 Amendment Order ¶ 28.

<sup>28</sup> Part 101 Amendment Order ¶ 32.

public interest. And, in fact, the latter request would significantly harm the public interest by restricting capacity with little or no offsetting benefit. Accordingly, the Commission should reject these proposed modifications to GCI's request, and grant GCI's petition.

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