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By Electronic Filing

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

Re: *Business Data Services In an Internet Protocol Environment; Special Access For Price Cap Local Exchange Carriers,* WC Docket Nos. 16-143 & 05-25; RM-10593 – Notice of *Ex Parte* Presentation

Dear Ms. Dortch:

On Friday, August 19, Leonard Steinberg, Beth Barnes, Bill Bishop, Mark Enzenberger, Lisa Phillips and Ruth Willard, all of Alaska Communications, outside economic consultant David Blessing, and outside counsel Richard Cameron and I, all on behalf of Alaska Communications, jointly presented to Stephanie Weiner, Bill Dever, and Bill Layton information relevant to the Business Data Services ("BDS") rulemaking in the above-captioned dockets. This letter summarizes the information presented, and supplements the recent comments and reply comments filed by Alaska Communications in these dockets.[1]

Background

The state of Alaska is by far the largest geographically, but one of the most sparsely populated and difficult to serve. The only market in the state deemed to be "urban" by the FCC is Anchorage, with nearly half the state's population. Fairbanks and Juneau are the next largest communities. All three of these population centers, and a number of rural communities such as Kenai, Soldotna, Homer, Nenana, and Delta Junction are connected to one another and the outside world by fiber-optic cable, all are on the state electric grid, and all have roads or scheduled ferry service connecting them to the surrounding communities. These urban and rural

[1] *Business Data Services in an Internet Protocol Environment, et al.,* WC Docket Nos. 16-143, 05-25, RM-10593, Comments of Alaska Communications (filed June 28, 2016) ("Alaska Communications Comments"), Reply Comments of Alaska Communications (filed August 9, 2016) ("Alaska Communications Reply Comments"). In the coming days, Alaska Communications expects to further supplement this letter with detailed declarations from its team of experts discussing market dynamics in Alaska, as well as Alaska Communications' BDS market share and pricing trends.

areas are distinguished from a third type of Alaska community called the "Bush" where there are no roads, no fiber-optic cables, and no electrical infrastructure on which service providers such as LECs and BDS providers may rely. Services (such as high-speed Internet connectivity and BDS) linking the Bush to the outside world are limited and expensive, and rarely owned by the ILECs serving these remote Bush communities.

Alaska Communications is the only price cap local exchange carrier ("LEC") in the state of Alaska. Alaska Communications serves Anchorage, Fairbanks and Juneau, a number of rural areas as noted above, and also 49 Bush communities.

Historically, Alaska LECs have served the local exchange and exchange access markets but did not control interexchange facilities linking those markets to each other or to locations outside the state. Rather, interexchange facilities were initially the exclusive province of a single service provider, RCA Alascom, with a state mandate (fulfilled principally by satellite service). Alascom was subsequently acquired by AT&T, with the mandate to provide intrastate, interstate and international services to and from Alaska. General Communication, Inc. ("GCI") began to compete in the interexchange market in the 1980s, and, in many areas, has displaced AT&T to become the dominant interexchange provider and monopoly owner of bottleneck transport facilities that are essential to the delivery of BDS in some Bush communities served by Alaska's price cap LEC, Alaska Communications.

With advancement in fiber optic cable in the 1990s, some LECs such as Alaska Communications extended their own interexchange facilities on routes on the state road system, such as between Anchorage and Fairbanks. Today, however, a significant number of communities in Alaska remain connected only by satellite-based interexchange service, or by limited-capacity microwave service. Universal availability of fiber facilities (or a combination of fiber and short-hop, high-capacity microwave) serving the Bush remains a goal that has yet to be achieved. In prior filings, Alaska Communications demonstrated that this could be accomplished for between $60 and $90 million per year over ten years.[2] The Commission has not yet acted on this proposal.

<u>The BDS Market In Alaska Communications' Service Area Is Competitive</u>

Alaska Communications is facing robust competition for BDS, steadily declining prices, and declining revenues from switched access, special access, and universal service support. In this environment, there is no justification for imposing rate cuts on BDS provided by Alaska's LECs.

As set forth in Alaska Communications' Comments and Reply Comments in this proceeding, the Alaska-specific data reflected in the Commission's special access data collection appear so woefully incomplete that they cannot form the basis for any regulation of Alaska Communications' BDS rates anywhere in the state.

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[2] *See, e.g., Connect America Fund,* WC Docket No. 10-90, Letter from Karen Brinkmann, Counsel for Alaska Communications, to Marlene H. Dortch, FCC Secretary (filed Nov. 19, 2015).

Moreover, the record fails to demonstrate that Alaska Communications, the incumbent price cap LEC, has the ability to raise BDS prices in any of its local markets. In fact, Alaska Communications' BDS prices have declined over the past eight years, as a result of effective competition and customers are migrating to higher-bandwidth and more advanced services such as Metro Ethernet. It is non-LEC broadband operators, including GCI and AT&T, both far larger companies, that enjoy not only much greater market capitalization but also the majority of the market share in the Alaska BDS market. Indeed, Alaska Communications possesses less than half of the BDS market share in any community, and in many regions less than a third of the market share. AT&T, GCI, and other carriers actively compete for BDS customers in Alaska Communications' service territories, which has put significant downward pressure on prices both before and since 2013 (the "snapshot" year for the Commission's special access data collection). AT&T is in the process of transitioning to a nationwide pricing policy referred to as "one rate," bringing its BDS rates in Alaska down to levels on par with its rates for equivalent services elsewhere in the lower 48 states.

The intensity of BDS competition in Alaska makes it among the most effective of any geographic market in the nation. The mere fact that customers sometimes receive bids from only two or three service providers does not in itself suggest that competition is any less robust than in more heavily populated areas – it only suggests that the size of the Alaska market may not justify a larger number of service providers. Even so, customers are benefitting from the lower prices and innovation that competition would be expected to bring. Just as the FCC did not create a single national model that would accurately predict the cost of deploying broadband in Alaska,[3] competition in a particular product market does not come in a single package. The proof of competition is in the resulting benefits to customers. Alaska Communications, therefore, objects to the premise of the Further Notice that all price cap LECs possess market power in the BDS sector. No evidence of such market power has been offered in any part of Alaska – except for the middle mile portion of service to the Bush, where Alaska Communications has demonstrated *GCI's* dominance.[4]

<u>The Commission Should Address the Middle Mile Bottleneck In Alaska</u>

The BDS market in Alaska is unique in at least one respect – it cannot be studied (or appropriately regulated) by focusing only on the LECs. Delivery of BDS in most Alaska communities – including all of the Bush communities served by Alaska Communications – requires access *both* to last-mile or special access connectivity (already subject to regulation in the form of the ILEC's interstate tariffs) *and* to interexchange or middle-mile transport (currently exempt from regulation, even where it is subject to monopoly control). Without broadband-

[3] *See Connect America Fund, et al.,* WC Docket Nos. 10-90 *et al.,* Report & Order, 29 FCC Rcd 15644, 15662 (2014) (declining to adopt a "one-size-fits-all" approach to broadband support for price cap carriers serving non-contiguous areas); *id.,* Report & Order, 29 FCC Rcd 3964, 4029 (Wireline Competition Bur. 2014) (acknowledging that questions remain as to the model's accuracy in predicting costs in Alaska).

[4] Alaska Communications Comments at 14; Alaska Communications Reply Comments at 11.

capable middle-mile facilities linking those communities with Anchorage or Juneau, end-to-end broadband services are not effectively available in the Bush, because facilities in the Bush (no matter how advanced) are not interconnected via high-speed networks with national and global networks via undersea cables to the lower 48 states.

In Bush communities, there are few BDS customers (chiefly the local school, library, or health care provider) and the community itself is generally compact, meaning that last-mile issues are comparatively easy to overcome – whether via wireline loops, microwave connections, or wireless local loop technologies. In contrast, because of the prohibitive cost of long-haul broadband deployment and the small size of the markets involved, middle-mile bottlenecks are economically impossible to avoid. GCI is thus ideally positioned to leverage its interexchange monopoly and price squeeze tactics to exclude Alaska Communications from rural and Bush BDS markets because, as GCI itself has confirmed, "transport service between local exchanges in Alaska has ***always*** been provided ***only*** by interexchange carriers."[5]

Failure to analyze the middle mile market would therefore be a failure to comprehend the BDS market in Alaska. While the Further Notice in this proceeding discusses only regulation of price cap LECs, in a number of Alaska's Bush communities it is GCI that controls bottleneck facilities, preventing competitive BDS market entry. The Commission should not adopt any new rules regulating BDS in Alaska without investigating this critical piece of Alaska infrastructure.

Conclusion

As the Commission is aware, imposing regulation is counter-productive where competitive forces are at work. The forthcoming declarations will confirm that the Commission should not impose price regulation on BDS offered by Alaska's price cap ILEC – which is subject to intense competition – but rather examine the true bottleneck in Alaska, middle mile facilities serving Bush communities.

Please direct any questions regarding this matter to me.

Very truly yours,

Karen Brinkmann

Karen Brinkmann
Counsel to Alaska Communications

cc: Stephanie Weiner
William Dever
William Layton

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[5] GCI Reply Comments at 2 (emphasis added).