

May 3, 2016

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Connect America Fund*, WC Docket No. 10-90; *Universal Service Reform Mobility Fund*, WT Docket No. 10-208

Dear Ms. Dortch:

General Communication, Inc. (“GCI”) responds to the repetitive and unprincipled attempts of Alaska Communications Systems (“ACS”) to scuttle the Alaska Plan, as it uniquely continues to collect the same amount of high-cost support as it did in 2011, despite the absence of any performance commitments.¹ Notwithstanding the harm it would cause to Alaska consumers hungry for a better broadband experience—and those starving for any mobile service at all—ACS seeks to spoil the efforts of the entire Alaska telecom industry eager to invest, expand, and upgrade broadband services for Alaska consumers. Rather than investing in facilities necessary to improve its own service offerings and position, ACS instead looks to siphon off universal service support targeted for mobile voice and broadband service in rural Alaska—services ACS no longer offers—to support the middle mile services that ACS seeks to purchase for its enterprise operations. The Commission should reject ACS’s attempts to divert the competitive eligible telecommunications carrier (“CETC”) portions of the integrated Alaska Plan from delivering improved mobile service to Alaskan consumers.

It should be clear to the Commission that ACS has no interest in improving service in remote areas of Alaska, including communities within ACS’s own service territory. As Alaska’s sole price cap carrier, ACS has received frozen high-cost support for five years now and *still has no performance obligations*. With respect to its proposed build out requirements, ACS will

¹ Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92 (Apr. 18, 2016) (“ACS Apr. 18, 2016 *Ex Parte* Letter”); Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92 (Apr. 21, 2016) (“ACS Apr. 21, 2016 *Ex Parte* Letter”); Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92 (Apr. 29, 2016) (“ACS Apr. 29, 2016 *Ex Parte* Letter”).

commit only to improve broadband in the communities it serves along Alaska’s road system, specifically excluding the Alaska Bush.² ACS has built no new middle mile facilities of which GCI is aware, and has informed the Commission that its access to this predictable level of support will do nothing to improve middle mile infrastructure.³

By contrast, GCI and other Alaska providers have taken a much different path since the *USF/ICC Transformation Order* in 2011, even while adjusting to support reductions. For example, GCI deployed the first terrestrial middle mile network in western Alaska connected to the Internet backbone (known as “TERRA”), expanded and upgraded wireless coverage—including new LTE service to more than 80 percent of Alaska’s population (although much more remains to be done in Alaska’s rural communities, as the Alaska Plan contemplates)—and increased broadband speeds in many parts of its service territory including deploying 1 Gig Internet access service to a majority of Alaska’s locations, with further expansion coming this summer. GCI continues to expand its TERRA terrestrial microwave network in roadless western Alaska, with plans to connect existing points to make a closed, redundant ring to improve speed, capacity, and reliability, and to extend TERRA further west and north into areas currently served only by satellite backhaul.⁴ Other Alaska Plan supporters have likewise made significant investments in remote Alaska.

In short, ACS has nothing meritorious or new to add to the Commission’s consideration of the Alaska Plan. As proposed by the Alaska Telephone Association (“ATA”)⁵ and supported

² See Letter from Karen Brinkmann, Counsel for Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Feb. 3, 2015), at 2 & n.3 (“ACS Feb. 3, 2015 *Ex Parte* Letter”) (“ACS would deploy qualifying broadband to a minimum of 26,000 eligible locations. This number is consistent with the results of the most recent CAF high-cost model run, version 4.2, excluding the locations that are not on the Alaska road system. . . . ACS has long advocated excluding ‘bush’ locations from its build-out obligations under CAF Phase II. See, e.g., ACS Comments at 13.”).

³ See Letter from Richard R. Cameron, Legal Consultant, Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Mar. 4, 2016), at 1 (“ACS Mar. 4, 2016 *Ex Parte* Letter”) (“Alaska Communications clarifies that it is not aware of any locations within the 26,000 it proposes to serve using CAF Phase II frozen support that lack terrestrial backhaul facilities.”).

⁴ See *TERRA 2016-2017 Construction*, <http://terra.gci.com/maps-locations/terra-2016-2017-construction> (last visited Apr. 29, 2016).

⁵ See Letter from Christine O’Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Feb. 20, 2015), Attach. (“Alaska Plan”).

by parties inside and outside Alaska,⁶ the Alaska Plan is a concrete, practical, enforceable proposal to improve, sustain, and expand broadband and mobile services in remote areas of Alaska starting this year, and the Commission should proceed now to adopt the Plan in its entirety.

I. ALL ALASKA PROVIDERS NEED CERTAINTY.

ACS supports the proposition that “it is appropriate to offer Alaska’s ROR LECs the opportunity to continue receiving frozen high-cost support for a period of ten years while establishing reasonably achievable broadband deployment expectations for each carrier.”⁷ This is convenient for ACS since it wants precisely the same for itself (although limited only to serving locations on the road system).⁸ In ACS’s view, Alaska’s CETCs comprise the one group of providers that does not need certainty in order to “deliver substantial benefits to unserved Alaskans,” and for which receiving a fixed amount of support over the same period would be an “extraordinary proposal.”⁹ The Commission should recognize ACS’s hypocrisy and reject the double-standard.

ACS’s main objection to the Alaska Plan for CETCs is that some of the frozen support would go to paying for middle mile, especially middle mile facilities that resulted from GCI’s history of investment. Specifically, ACS estimates that it would cost \$200 million to deploy 200

⁶ See Letter from Senator Lisa Murkowski, Senator Dan Sullivan, and Representative Don Young to Chairman Wheeler (Nov. 16, 2015), attached to Letter from Christine O’Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Nov. 19, 2015); Letter from Rebecca Murphy Thompson, Executive Vice President & General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Feb. 17, 2016), at 2; see also Letter from Caressa D. Bennet, General Counsel, Rural Wireless Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (Apr. 13, 2016), at 6; Letter from Ross J. Lieberman, Senior Vice President of Government Affairs, American Cable Association, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (Nov. 25, 2015), at 1.

⁷ ACS Apr. 18, 2016 *Ex Parte* Letter at 1.

⁸ See ACS Apr. 18, 2016 *Ex Parte* Letter at 1-2; see ACS Feb. 3, 2015 *Ex Parte* Letter at 2 & n.3. ACS exited the wireless market, and has announced its new status as a “fiber broadband and managed information technology (‘managed IT’) services provider, *focused primarily on business and wholesale customers in and out of Alaska.*” Alaska Commc’ns Sys. Group, Inc., Annual Report (Form 10-K) (Mar. 28, 2016), at 4 (emphasis added).

⁹ ACS Apr. 18, 2016 *Ex Parte* Letter at 3.

new cell sites in Bush communities.¹⁰ Therefore, the argument goes, the remainder is a windfall to GCI as a middle mile provider.

An actual analysis of the costs to bring 4G LTE service to remote Alaska shows something quite different. An updated analysis by the Brattle Group estimates that the present value of the total incremental cost to bring 4G LTE to all remote Alaskans currently limited to 2G or 3G service is \$1,284,357,506.¹¹ This estimate includes capital costs, 10 years of operations and maintenance, and 10 years of backhaul, including middle mile, which must be included for providing an actual service, as the A-CAM model does.¹² Even if all microwave middle mile were *free* to all the Alaska Plan CETC participants (which would be unreasonable), the present value of the total incremental costs would be \$696,438,221. Yet, the present value of the frozen support to CETCs under the Alaska Plan is \$506,303,898.¹³ Put another way, even completely disregarding the cost of microwave middle mile entirely, the total cost to deploy 4G LTE to these locations *exceeds the total amount of frozen high-cost support that would be*

¹⁰ *Id.* at 5; see ACS Apr. 29, 2016 *Ex Parte* Letter at 4 (asking the Commission to dedicate \$800 million to ACS’s risk-free middle mile proposal). ACS cites the Alaska Broadband Task Force’s report for the proposition that with \$640 million, sufficient middle mile could be deployed to provide 100 Mbps broadband Internet access to every household in Alaska. See ACS Apr. 29, 2016 *Ex Parte* Letter at 4 (citing Statewide Broadband Task Force, ‘A Blueprint for Alaska’s Broadband Future’ (Oct. 24, 2014) at 33, <http://www.alaska.edu/oit/bbtaskforce/docs/Statewide-Broadband-Task-Force-Report-FINAL.pdf>) (“Task Force Report”). While GCI is supportive of the goals of the Task Force, unfortunately it did not explain how it reached its conclusion regarding the amount of funding needed to provide sufficient middle mile for its goal. In addition, ACS fails to disclose that the Task Force also reasonably “recognized that the future cost of broadband deployment would be different than estimated in this report due to a variety of factors” and advised that its approach was “not . . . to provide extremely precise estimates but to gauge the investment in broadband required in order to have a sense of the resultant social and economic returns.” Task Force Report at 33. In other words, the cost estimates were offered as guidance, not gospel.

¹¹ GCI will be separately filing an updated Brattle model in the coming days. The Brattle model does not include the costs of transport between Alaska and the Lower 48, which further add to the costs for CETCs to deploy mobile broadband.

¹² See *Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 14-58, CC Docket No. 01-92, FCC 16-33, ¶¶ 36, 46 & n.93 (rel. Mar. 30, 2016) (“*Rate-of-Return Reform Order*”) (noting that A-CAM accounts for rate-of-return carriers’ higher middle mile costs).

¹³ The Plan as proposed would provide \$73,761,353 annually to Alaska CETCs to support, sustain, and upgrade areas that currently have 2G or 3G. Over ten years, that is a total of \$737,613,530, the present value of which is \$506,303,898, at a discount rate of 7.5%.

available to CETCs. Private investment will cover much of the cost. Rather than a problem, this is exactly how USF support should be leveraged for public benefit, and is in line with GCI's experience that USF support unleashes private investment that the market alone will not support.

II. THE ALASKA PLAN WILL DEMONSTRABLY IMPROVE SERVICE FOR ALASKA CONSUMERS.

The Alaska Plan is a consensus proposal to bring improved broadband and mobile services to underserved areas, and to bring mobile services to areas that today have none. The Plan has zero impact on the nationwide high-cost budget, contains enforceable commitments, and has the support of major trade associations and Members of Congress.¹⁴ The holistic plan furthers section 254's mandate for "reasonably comparable" service as customers in the rest of the country choose mobile in addition to or instead of wireless for both voice and broadband.¹⁵

Yet, ACS, standing alone, argues that the CETC components of the Plan will "do nothing to achieve the broadband expansion to which the Alaska ROR LECs aspire,"¹⁶ repeating its mantra that CETCs would not be "tied to specific deliverables or increased accountability,"¹⁷ or that ATA members "offer no specific, enforceable metrics by which the Commission could determine if the support was being used in the public interest."¹⁸ Gratuitous repetition does not

¹⁴ See *supra* note 6.

¹⁵ The most recent survey by the Centers for Disease Control shows that as of June 2015 nearly half of all adults (46.7%) and a majority of all children (55.3%) lived in wireless-only households. See *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January-June 2015*, Division of Health Interview Statistics, National Center for Health Statistics, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services (rel. Dec. 2015), at 2, www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201512.pdf. The Commission estimates that about 70% of 911 calls are made from wireless phones today. FCC, *911 Wireless Services* (last updated Nov. 2, 2015, 3:45 PM), <https://www.fcc.gov/consumers/guides/911-wireless-services>.

¹⁶ ACS Apr. 18, 2016 *Ex Parte* Letter at 3.

¹⁷ See, e.g., *id.* at 4.

¹⁸ ACS Apr. 29, 2016 *Ex Parte* Letter at 3. ACS suggests that it is not welcome to participate in the Alaska Plan. See *id.* Actually, ATA fully included ACS in its discussions about how to bring broadband and mobile services to Alaska. It was ACS that chose to walk away, but only after it decided to exit the wireless business and after the Commission decided to provide price cap incumbent local exchange carriers ("ILECs") in non-contiguous areas the option of maintaining frozen support. See Letter from Chris Nierman, Senior Counsel,

trump the well-developed record in this proceeding. Since the beginning, the Alaska Plan specifically and expressly proposed that each ILEC *and each Remote Alaska CETC* will be subject to specific performance requirements as a pre-condition of being permitted to participate in the Alaska Plan.¹⁹ Potential participants, including GCI, have filed proposed specific performance commitments. With the Alaska Plan, GCI could drastically increase LTE coverage for remote Alaska residents that currently have some wireless service but that do not have AT&T or Verizon LTE. Indeed, that number would jump from 4 percent to 85 percent.²⁰ The Alaska Plan would expand service beyond this population once the Commission conducts the reverse auction to award support to build out to totally unserved areas.

These are not empty promises. ATA has proposed that those commitments would be enforceable in the same manner as the specific build-out requirements of price cap carriers accepting Connect America Phase II support, rate-of-return carriers accepting model-based support, and all other carriers that have specific deployment obligations with defined milestones.²¹ ACS's statements to the contrary blatantly disregard the record.

Nor should the Commission buy into ACS's arguments that the Alaska Plan will waste high-cost dollars by supporting overlapping mobile providers.²² First, no area served by AT&T or Verizon LTE would be eligible for support. This proposal would guarantee substantial LTE upgrades to areas that are currently at 3G or even 2G.

Second, ACS ignores that the disruption of support would likely result in the loss of service from many of the Alaska CETCs, smaller companies that rely heavily on high-cost

Federal Affairs, General Communication, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (June 3, 2015), at 2 (“GCI June 3, 2015 *Ex Parte* Letter”).

¹⁹ See Alaska Plan at 2.

²⁰ See Letter from John T. Nakahata, Counsel to General Communication, Inc., WC Docket No. 10-90, WT Docket No. 10-208, Attach. A (Apr. 19, 2016) (“GCI Apr. 19, 2016 *Ex Parte* Letter”).

²¹ See Letter from Christine O'Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, Attach. at 4, 20 (Apr. 18, 2016) (“ATA Apr. 18, 2016 *Ex Parte* Letter”) (proposing new rule 47 C.F.R. § 54.306(b) (“If performance requirements [of a rate-of-return carrier participating in the Alaska Infrastructure Fund] are not achieved, the carrier shall be subject to the compliance and recordkeeping requirements of §54.320(d).”) and new rule 47 C.F.R. § 54.317(f) (“If performance requirements [of a CETC participating in the Remote Alaska Mobile Infrastructure Plan] are not achieved, the carrier shall be subject to the compliance and recordkeeping requirements of §54.320(d).”)).

²² See ACS Apr. 18, 2016 *Ex Parte* Letter at 4-5.

support to maintain operations and provide mobile services in these challenging areas. Such a result would not be without impact on remote consumers. Not only could some lose service as a result, given the patchwork quilt of coverage across traditional RLEC study areas,²³ but also the elimination of one provider in a service area may leave customers with unusable devices, and roamers without any service or ability to reach emergency responders if they happen to be relying on the “wrong” air interface.²⁴ Although as all providers deploy LTE, roamers should be able more easily to roam without the legacy differences between GSM and CDMA networks, that will not be the case in Remote Alaska without the network development that carriers will deliver as a part of their Alaska Plan commitments. Indeed, the Alaska Plan is needed precisely because LTE service is extremely limited in Remote Alaska today. The Nationwide LTE Coverage Map as produced for the 18th Annual Mobile Wireless Competition Report shows the contrast between LTE coverage nationally, and LTE coverage in Alaska.

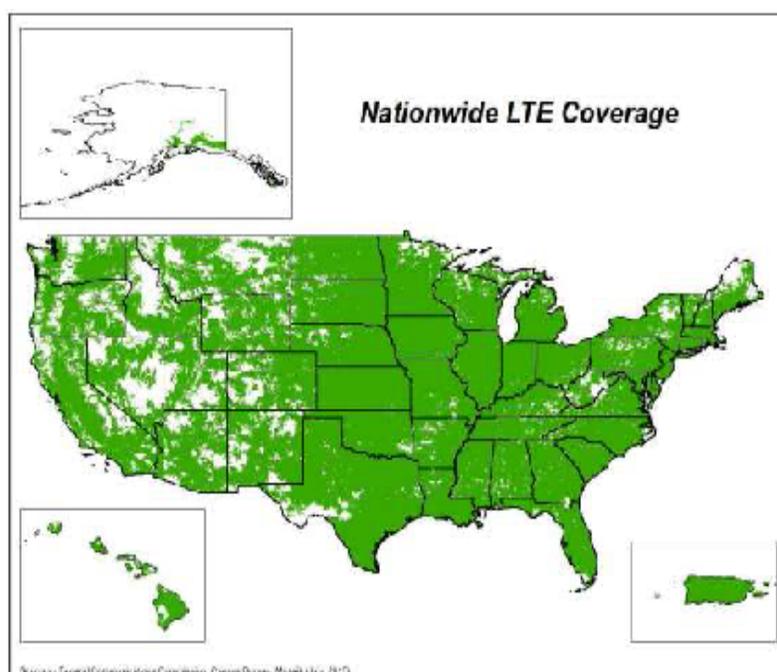


Figure 1: FCC, 18th Annual Mobile Wireless Competition Report, Web Appendices (Download feature), wireless.fcc.gov/competition-reports/mobile-wireless/mw-18/report-assets/.

²³ See GCI Apr. 19, 2016 *Ex Parte* Letter, Attach. B.

²⁴ In any event, only approximately 3,000 people are in census blocks served today by two potential Alaska Plan CETCs offering 3G or better service.



Figure 2: Created from FCC, 18th Annual Mobile Wireless Competition Report, Web Appendices, Appendix I: Maps, Nationwide LTE Coverage, July 2015, wireless.fcc.gov/competition-reports/mobile-wireless/mw-18/report-assets/.

Finally, in light of the limited nature of overlap, Alaska’s unique circumstances²⁵ do not call for the substantial cost and risk of eliminating support to networks having any overlap. This situation is entirely distinct from the issues under review for Mobility Fund Phase II. As ATA and GCI have previously explained, the Alaska Plan is a single, interdependent plan. Every Alaska-based CETC is an affiliate of a rate-of-return ILEC. Providers will make holistic plans—including the wired and wireless pieces—for their specific build-outs. Pulling it apart risks the advancements across the board.

Lower 48 policies regarding CETC overlaps cannot simply be transposed onto Alaska. The best example is that geographic areas in Alaska are orders of magnitude apart from Lower 48 measures. As the Commission recognized in the *USF/ICC Transformation Order*, “[i]n Alaska, the average census block is more than 50 times the size of the average census block in the other 49 states and the District of Columbia, such that the large size of census areas poses distinctive challenges in identifying unserved communities and providing service.”²⁶ Thus,

²⁵ See Letter from Christine O’Connor, Executive Director, Alaska Telephone Association, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92 (Feb. 8, 2016), at 2 (identifying numerous examples of modifying national USF policies to fit Alaska).

²⁶ *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17,663, 17,788 ¶ 347 (2011) (citations omitted), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

network coverage in part of a remote Alaska census block is less likely to reflect that the census block is fully served than such partial coverage in the Lower 48,²⁷ and one CETC may not be in a position to serve the entire census block. Indeed, the last time the Commission attempted to group Alaska with the rest of rural America—Mobility Fund Phase I—a mere 1 percent of the available funds were awarded to Alaska, precisely because the demographic, geographic, and economic criteria in Alaska do not correlate to the rest of the country. There is no more reason now to group Alaska USF decisions with the rest of the country than there has ever been.

The cost for rural Alaskans of unwinding the consensus Alaska Plan at the behest of the one Alaska provider—who operates with the luxury of high cost certainty and based on nothing more than its say-so—is too high. The Commission should adopt the practical Alaska Plan as proposed. Alaska consumers are ready for better service.²⁸

III. THE COMMISSION SHOULD NOT HOLD THE ALASKA PLAN HOSTAGE TO ACS'S INVESTMENT-FREE STRATEGY FOR MIDDLE MILE.

Rather than step aside and let willing providers invest in improved services for thousands of Alaska consumers, ACS uses the Alaska Plan as an opportunity to plug its proposal to solve the self-professed “market failure” for middle mile in Alaska.²⁹ The failure here is ACS's lack of investment, which is not a failure relevant to the Alaska Plan. Indeed, ACS would shift the entire focus of the Alaska Plan away from delivering affordable and reasonably comparable mobile voice and broadband services to rural Alaskans, to affordable and reasonably comparable middle mile services to carriers. This shift should be rejected. Universal service is about delivering services to end users.

GCI's history of investing its own capital to build new connections for Alaska consumers goes back to its founding in 1979, when it started by constructing its own long-distance facilities, deploying switches and earth stations in regional centers and, in 1996, in 56 rural villages. In 1997, with the advent of local competition, it began building local networks, eventually deploying switches, local fiber rings, and extensive upgrades of cable networks, in 22 towns and

²⁷ Precisely for this reason, ATA members consider a census block “served” by AT&T or Verizon LTE if 85% of the population in that block falls within the appropriate AT&T or Verizon Form 477 shapefile.

²⁸ For the same reasons, the Commission should reject ACS's arguments that Alaska Plan support should not be transferrable in the case of the transfer of supported lines. *See* ACS Apr. 29, 2016 *Ex Parte* Letter at 9. If locations are uneconomic to serve without support, they remain so after a transaction.

²⁹ *See, e.g.*, ACS Apr. 29, 2016 *Ex Parte* Letter at 2-3. ACS likewise fails to identify any specific “harm” to the Alaska market. As shown in the prior section and numerous filings, Alaskans will specifically *benefit* from the Plan through the availability of vastly increased broadband services.

villages, providing voice and Internet service in addition to video. In 1998, it began construction of new fiber to connect Alaska's three major population centers with the Lower 48, followed by a second Alaska-Seattle undersea fiber in 2003 to provide diversity and additional capacity. In 2000, GCI invested to become the anchor tenant on the Galaxy X satellite. In 2008, GCI deployed an undersea fiber system connecting Ketchikan, Petersburg, Wrangell, Angoon, and Sitka to existing fiber.³⁰

Recognizing the need for additional infrastructure to meet growing demand in rural Alaska, GCI built and deployed its TERRA network, which was western Alaska's *first* terrestrial middle mile network connected to the Internet, serving 65 communities in the Bristol Bay and Yukon-Kuskokwim Delta. TERRA now serves 72 remote Alaska communities, and, assuming stable high-cost support, will reach at least 82 by the end of 2017. As ACS is fond of mentioning, TERRA was funded in part through a Broadband Initiatives Program ("BIP") grant of \$44 million and a BIP loan of \$44 million (as well as a \$6 million from the State of Alaska).³¹ ACS never mentioned, however, that to date GCI has incurred more than \$178 million in risk for the capital necessary to build TERRA, not to mention the costs to operate and maintain such a network. Thus, at least 78 percent of what ACS calls a "publicly-funded"³² TERRA project is actually GCI at-risk capital.³³ Other like-minded carriers in Alaska are also investing in middle mile facilities, improving connectivity to remote areas and, in some cases, providing direct competition to GCI's middle mile offerings.³⁴ Through their investments and persistence, these providers have already disproven ACS's self-serving assertion that Alaska Bush communities "simply have no possibility of obtaining broadband-based services" unless the Commission adopts ACS's proposal.³⁵

Rather than risk its own capital to deploy new middle mile facilities, ACS prefers to spend time, energy, and money on an unceasing string of accusations at GCI regarding

³⁰ See *Milestones*, GCI, <https://www.gci.com/about/milestones> (last visited Apr. 29, 2016).

³¹ GCI actually completed TERRA under budget, and therefore only required \$40,839,745 of its awarded loan amount and \$40,676,715 of its awarded BIP grant.

³² ACS Apr. 18, 2016 *Ex Parte* Letter at 6. ACS continues to consider the BIP loan a gift. That money is not free; loans must be repaid. Any benefit to GCI is the small difference between the BIP loan interest rate and the private rate GCI could have received at the time.

³³ ACS, of course, was welcome to apply for BIP awards to support middle-mile facilities in remote Alaska. It did not do so.

³⁴ GCI June 3, 2015 *Ex Parte* Letter at 2-4; see also *infra* at 17 (Figure 4).

³⁵ ACS Apr. 29, 2016 *Ex Parte* Letter at 2.

TERRA.³⁶ These efforts are designed to prevent GCI from making further deployments or to provide ACS with windfall, below-cost access to GCI's existing investments, or both. With all

³⁶ In addition to ACS's most recent filings, ACS has made literally dozens of attempts to discredit GCI's investment in middle mile facilities or its practices for making capacity available to others at publicly posted rates, and none has been taken seriously. *See* Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90, 05-337, 14-58, 07-35, WT Docket No. 10-208, CC Docket No. 01-92 (Mar. 11, 2016), at 3; Reply Comments of Alaska Communications, WC Docket No. 02-60 (Jan. 29, 2016), at 4-6; Comments of Alaska Communications, WC Docket No. 05-25, RM-10593 (Jan. 28, 2016), at 8; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (Dec. 15, 2015); Closing the Middle Mile Gap in Alaska: A Proposed Plan of Action for All of Alaska, attached to Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Nov. 19, 2015), at 12; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (May 14, 2015), at 2; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (Feb. 27, 2015) ("ACS Feb. 27, 2015 *Ex Parte* Letter"), Attach. at 2; Comments of Alaska Communications Systems, WC Docket No. 10-90 (Dec. 22, 2014), at 5; Comments of Alaska Communications Systems, WC Docket No. 05-25, RM-10593 (Nov. 10, 2014), at 7; Comments of Alaska Communications Systems, *Notice of Inquiry—Telecommunications Assessment for the Arctic Region*, National Telecommunications and Information Administration, Docket No. 140925800-4800-01 (Dec. 3, 2014), at 2; Reply Comments of Alaska Communications Systems, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92 (Sept. 8, 2014), at 25; Letter from Richard R. Cameron, Consultant, Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (Mar. 28, 2014), at n.4; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 13-184, WT Docket No. 10-208, CC Docket No. 02-60 (Jan. 29, 2014); Reply Comments of Alaska Communications Systems, WC Docket No. 13-184 (Nov. 8, 2013), at 5; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 02-60 (Sept. 24, 2013); Letter from Lisa Phillips, Manager of Regulatory Affairs, Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (July 31, 2013), Attach. at 19; Comments of Alaska Communications Systems, WC Docket No. 05-25, RM-10593 (Apr. 19, 2013), at 9 n.27; Comments of Alaska Communications Systems, WC Docket No. 05-25, RM-10593 (Feb. 11, 2013), at 12; Letter from Karen Brinkmann, Counsel to Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 02-60 (Sept. 24, 2012), Attach. at 3; Letter from Richard R. Cameron, Assistant Vice President and Senior Counsel, Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 02-60, 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51 (Sept. 7, 2012), Attach.

the noise that ACS makes regarding TERRA, one would think that its entire rural footprint is dependent on this single network. In reality, ACS's study areas include *only four* communities that are served on TERRA, with a combined population of 700, representing approximately 0.15 percent of the population in ACS's study areas. In that light, ACS's vehemence evidences that its complaints are not motivated by a concern for serving Bush communities, but rather by a naked desire to mandate gerrymandered rates so that it can compete for enterprise customers without making any investment or paying a commercially available rate. These arguments are meritless, and the Commission should not allow them to deny Alaska consumers the benefits of the Alaska Plan.

One of ACS's themes is that GCI engages in anticompetitive practices when it comes to access to TERRA. This is demonstrably false. Access to TERRA is available to all comers at rates that are posted on GCI's website.³⁷ By contrast, ACS's rates for its Kodiak Microwave Network (over which it purchased all the capacity, but which it did not build) remain entirely opaque and difficult to obtain even upon request.

Nor are GCI's prices for capacity on TERRA unreasonable. As the TERRA price schedule shows, capacity is available at less than one-third of the price calculated by ACS when term and bulk discounts are taken into account. TERRA rates on average have decreased by approximately 20 percent from those that RUS reviewed during the BIP loan/grant process, with some rates decreasing as much as 37 percent. While ACS claims that GCI charges substantially more than the urban rate for connectivity,³⁸ it is hardly surprising that backhaul rates over capacity-constrained satellite and microwave facilities in rural Alaska are more expensive than backhaul rates for short distance carriage over high-capacity fiber optic cable in urban parts of the State. As explained in more detail below, the costs to deliver middle mile service in rural

at 8; Letter from Richard R. Cameron, Assistant Vice President and Senior Counsel, Alaska Communications Systems, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 02-60, 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51 (July 27, 2012); Comments of Alaska Communications Systems Group, Inc., WC Docket No. 02-60 (Aug. 23, 2012), at 19; Reply Comments of Alaska Communications Systems Group, Inc., WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51 (Feb. 17, 2012), at 11; Opposition of Alaska Communications Systems Group, Inc., WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, GN Docket No. 09-51 (Feb. 9, 2012), at 5 n.8.

³⁷ General Communication, Inc., *TERRA Product Descriptions and Pricing* (July 29, 2015), https://www.gci.com/~media/images/gci/regulatory/gci_terra_posting_effective_07_29_15_final.pdf?la=en.

³⁸ ACS Apr. 18, 2016 *Ex Parte* Letter at 7. Even if ACS were correct, rates for services in Alaska can vary a great deal depending on distance, speed, term commitment, and configuration.

Alaska are much higher than in urban areas, and must be spread over a much smaller population—and without a significant number of large enterprise users.³⁹ Indeed, ACS fully acknowledges that reality, lamenting that in order to serve Bush communities, “ACS would need to deploy hundreds of miles of new transport facilities through virgin Alaskan wilderness, much of it federally protected wetlands,” and that “[i]t would be prohibitively expensive to undertake this effort, even if ACS were able to secure the necessary approvals to do so.”⁴⁰ While ACS is correct that such endeavors are extremely difficult, these are exactly the types of challenges GCI and other Alaska Plan signatories have overcome in deploying middle mile facilities to Bush communities in rural Alaska. Now, ACS wants the Commission to provide ACS with capacity on these “prohibitively expensive” undertakings at urban rates.

The more apt comparison is not between TERRA rates and urban rates, but instead between TERRA rates and the rates of other similar facilities in rural Alaska. Last year, GCI described a quote it received from ACS for capacity on its Kodiak microwave network that was 9 times that of TERRA on a per mile basis.⁴¹ There is no indication that ACS’s prices have fallen.

IV. ACS’S PROPOSED CONDITIONS ARE UNNECESSARY AND HARMFUL.

The “conditions” that ACS has proposed for any continuation of CETC support serve only ACS’s interests and are neither necessary nor appropriate. Half of them are redundant of existing requirements; the others would limit the Alaska Plan improvements to a smaller number of locations rather than providing broad-based benefits to thousands of underserved Alaska consumers.

³⁹ Anchorage, for example, has major regional headquarters for oil companies, airlines, fishing and mineral companies, banks, insurance companies, federal, state and local government, and many other large enterprise users. In rural Alaska, such as the areas on the TERRA network, the largest purchasers of bandwidth are the school districts and regional healthcare providers. Other entities—including the state and federal government—usually purchase only comparatively small amounts of bandwidth. According to Census Bureau data, Anchorage has 2,884 businesses with 10 or more employees and more than 10,000 total businesses, while the TERRA region has only 187 businesses with 10 or more employees and fewer than 750 total businesses sprinkled across an area that covers 67,984 square miles—an area larger than Illinois.

⁴⁰ Comments of Alaska Communications Systems, WC Docket Nos. 10-90, 14-58, 07-315; WT Docket No. 10-208, CC Docket No. 01-92 (Aug. 8, 2014), at 15 (emphasis added).

⁴¹ See GCI June 3, 2015 *Ex Parte* Letter at 4 (stating that quoted ACS rate for 10 Mbps between Kodiak and Old Harbor, a distance of 57 miles, was \$61,200 plus a \$2,000 non-recurring charge, with a 5-year term commitment, while the TERRA rate for 10 Mbps of capacity with a 5-year term commitment is \$66,500 to span a distance of 550 miles).

ACS proposes that any continuing CETC support in Alaska used for “transport capacity” be conditioned on competitive access by multiple service providers in the same geographic area and be “accessible on a reasonably non-discriminatory basis by multiple competitors.”⁴² As a preliminary matter, this has nothing to do with the goal of universal service, which is to ensure that consumers have access to reasonably comparable services. Nonetheless, GCI makes capacity available. Prices are posted on GCI’s website, in accordance with the Commission’s rules for interstate interexchange services. TERRA is indeed used for competitive services today. What’s more, GCI agreed to these requirements as a condition of the grant and loan it received initially to help construct TERRA.⁴³ There is no need to re-impose them here, particularly when ACS has failed to identify any instance in which GCI has not adhered to its existing commitment.

Similarly useless, ACS most recently proposes that CETC support should be “conditioned upon annual certification and reporting, and subject to appropriate enforcement safeguards.”⁴⁴ Annual reporting and enforcement are part of the Alaska Plan.⁴⁵ To the extent ACS proposes to expand those requirements with letters of credit, it has offered no justification for that requirement. Indeed, this proposal would impose the greatest burden on smaller providers, by saddling them with additional costs and perhaps an impossible task. This would serve only to increase costs and divert support away from broadband deployment.

More troublingly, ACS proposes other, related conditions that would eviscerate the Alaska Plan.⁴⁶ First, ACS proposes that CETCs be required to spend 70 percent of their frozen

⁴² ACS Apr. 21, 2016 *Ex Parte* Letter at 3 (emphasis omitted) (proposed conditions 2 and 3).

⁴³ All BIP awardees were required to commit to “offer interconnection, where technically feasible without exceeding current or reasonably anticipated capacity limitations, on reasonable rates and terms to be negotiated with requesting parties.” *Broadband Technology Opportunities Program, Notice of Funds Availability*, 74 Fed. Reg. 33,104, 33,110-11 (July 9, 2009). Through its ILEC affiliate, GCI specifically agreed to “operate TERRA-SW in conformance with the FCC’s Internet Policy Statement and the other NOFA-required Nondiscrimination and Interconnection Obligations,” and to “offer wholesale and retail services to carriers and other customers that wish to provide or use broadband and other services in Service Area communities.” United Utilities Inc., *TERRA-SW: Terrestrial Broadband in Southwestern Alaska*, Executive Summary at 2, <http://www.ntia.doc.gov/broadbandgrants/applications/summaries/93.pdf>.

⁴⁴ ACS Apr. 29, 2016 *Ex Parte* Letter at 9.

⁴⁵ *See supra* note 21; ATA Apr. 18, 2016 *Ex Parte* Letter, Attach. at 13-19 (proposing the reporting obligations of 47 C.F.R. § 54.313 with minor modifications).

⁴⁶ ACS proposes a condition regarding overlapping CETC service areas. *See* ACS Apr. 29, 2016 *Ex Parte* Letter at 9. GCI addresses issues of CETC overlap above at pages 8-9.

support “to deploy and operate terrestrial middle mile facilities on routes where such facilities do not exist with sufficient capacity to meet demand based on speed and usage benchmarks the Commission has adopted.”⁴⁷ The Alaska Plan is oriented towards maximizing what can be delivered with less than 100 percent of the funding that would be necessary to meet all of the Commission’s objectives to every community. Where middle mile facilities exist, they can and should be used, with providers compensated for the capacity consumed; where new or upgraded facilities are needed to meet broadband commitments, those facilities or upgrades will need to be built. If CETCs were required to use 70 percent of their support on “routes where such facilities do not exist,” they would not be able flexibly to acquire, through purchase, upgrade or build, the middle mile capacity they need to connect Remote Alaska communities—especially those not on the road system—and such a condition would entirely preclude use of support for purchase of satellite backhaul. This is hardly consistent with the goal to provide reasonably comparable services to as many Americans in rural areas as possible (but entirely consistent with ACS’s own bid to focus its support on fiber-served, road areas).

In addition, ACS proposes that any “transport capacity” constructed or operated with CETC support must be sufficient for broadband services that meet the Commission’s minimum standards for speed and usage, and that such capacity be “reasonably affordable based on a comparison to prices for comparable services in urban areas.”⁴⁸ Either one of those conditions would severely constrain any provider’s ability to agree to performance obligations for locations served by microwave or satellite backhaul, and thus, the benefits to consumers under the Plan. Rather than serve the universal service mission, these conditions are meant to further ACS’s mission.

First, requiring USF-supported middle mile capacity used to provide residential broadband Internet access at 10/1 Mbps with “a usage allowance that meets or exceeds the usage level of 80 percent of [all] cable or fiber-based fixed broadband subscribers”⁴⁹ at urban prices pretends facts not in existence. As the Commission well knows, roadless rural Alaska has little fiber deployment, and by necessity, significant microwave network, with satellite service in areas not served by microwave, has necessarily filled that gap.⁵⁰ Alaska CETCs rely on fiber where

⁴⁷ ACS Apr. 29, 2016 *Ex Parte* Letter at 6 (emphasis omitted).

⁴⁸ ACS Apr. 21, 2016 *Ex Parte* Letter at 2-3 (emphasis omitted) (proposed conditions 1 and 4); ACS Apr. 29, 2016 *Ex Parte* Letter at 6, 8.

⁴⁹ *Rate-of-Return Reform Order* at ¶ 27.

⁵⁰ The TERRA backbone consists of more than 2,000 miles of microwave links and 400 miles of fiber—roughly the distance from Washington, DC to Las Vegas, NV.

possible (see Figure 3 below), but it is not physically or economically feasible⁵¹ to bury fiber throughout much of vast, inhospitable⁵² areas of western Alaska, even if such activity were permitted within the more than 100 million acres of federal protected land in Alaska.⁵³ Multiple rate-of-return carriers in Alaska, including Copper Valley Telecom and Matanuska Telephone Association have built combinations of fiber and microwave facilities to serve their villages, as shown in Figure 4.⁵⁴ Some providers, like Cordova Telephone Cooperative, have invested in subsea cables to service coastal communities,⁵⁵ but subsea cables cannot solve the problems of inland villages.⁵⁶ Because of the impediments to an extensive, reliable fiber optic solution, most of the TERRA network of western Alaska relies on microwave technology, as reflected in Figure

⁵¹ See, e.g., Comments of General Communication, Inc., *Telecommunications Assessment of the Arctic Region*, National Telecommunications and Information Administration, Docket No. 140925800-4800-01 (Dec. 4, 2014), at 4-6.

⁵² Long fiber runs over Arctic tundra would need to be safeguarded against damage caused by the complex and changing structure of permafrost, and the appearance of ice wedges (i.e., growing cracks in the ground) and pingos (i.e., small hills that arise quickly due to subsurface pressures), which could damage communications equipment. *Ice Wedges, Polygons, and Pingos*, U.S. FISH & WILDLIFE SERV. (last updated Jan. 8, 2014), <http://www.fws.gov/refuge/arctic/permcycle.html> (describing the process by which the permafrost cycles through these changes); *All About Frozen Ground—How Does Frozen Ground Affect Land?*, NAT'L SNOW & ICE DATA CTR., https://nsidc.org/cryosphere/frozenground/how_fg_affects_land.html (last visited Apr. 29, 2016) (describing how freezing and thawing in the Arctic can change the shape of the land).

⁵³ Much of the land in rural Alaska is protected by numerous federal and state laws that limit human activity, including the Alaska National Interest Lands Conservation Act, the National Wildlife Refuge System Administration Act, the National Wildlife Refuge System Improvement Act of 1997, the Wilderness Act, the Wild and Scenic Rivers Act, the Marine Mammal Protection Act, and the Arctic Refuge Comprehensive Conservation Plan.

⁵⁴ See also GCI June 3, 2015 *Ex Parte* at 3 (providing more details regarding middle mile deployment by providers other than GCI).

⁵⁵ See Jonah Arellano, *Cordova Telephone Cooperative: Delivering Advanced Communications Services to the End of the Road*, NTCA EXCHANGE, at 1, 6 (Feb. and Mar. 2012) http://www.smallcompanycoalition.com/files/ntca_ctc_article_feb_2012.pdf.

⁵⁶ Moreover, all submarine cables are at risk for occasional faults, i.e., manmade or natural events requiring maintenance or repair to ensure continuing functioning of those cables. GCI believes that the ice in the Arctic Ocean in the winter months could delay the ability to remedy such faults.

3. Even so, the challenges of Alaska's terrain and short construction season are difficult and expensive to overcome, and the network has been built out as finances permit.⁵⁷

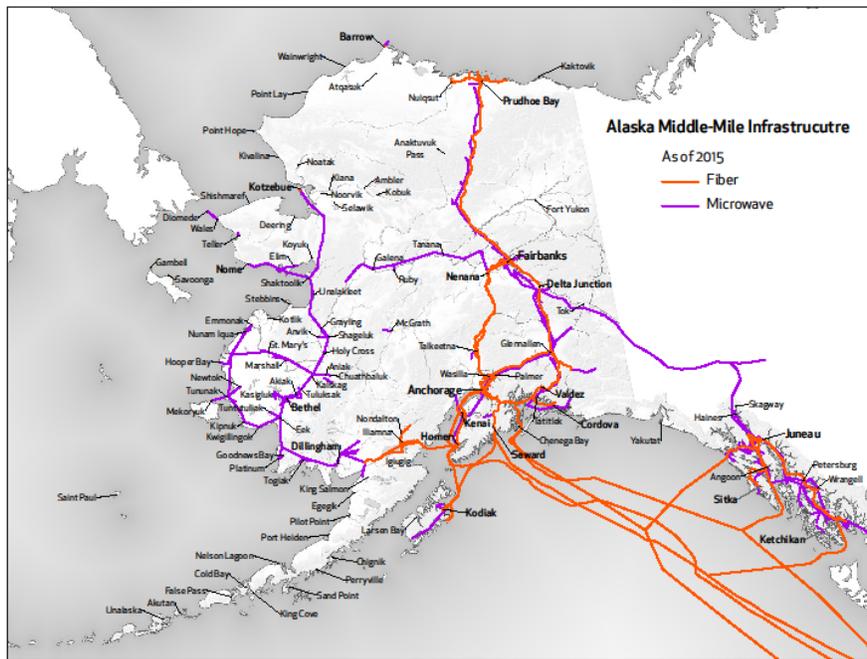


Figure 3: Source: GCI.

⁵⁷ Most of the communities that TERRA serves are not accessible by road; parts, equipment, and supplies must be delivered by helicopter. The construction of mountaintop repeater sites requires highly trained teams operating out of temporary shelters. Once built, these sites must be self-powered with redundant diesel engine-generator sets at the mountaintop microwave repeaters, which require 18 annual helicopter trips to each site for refueling.

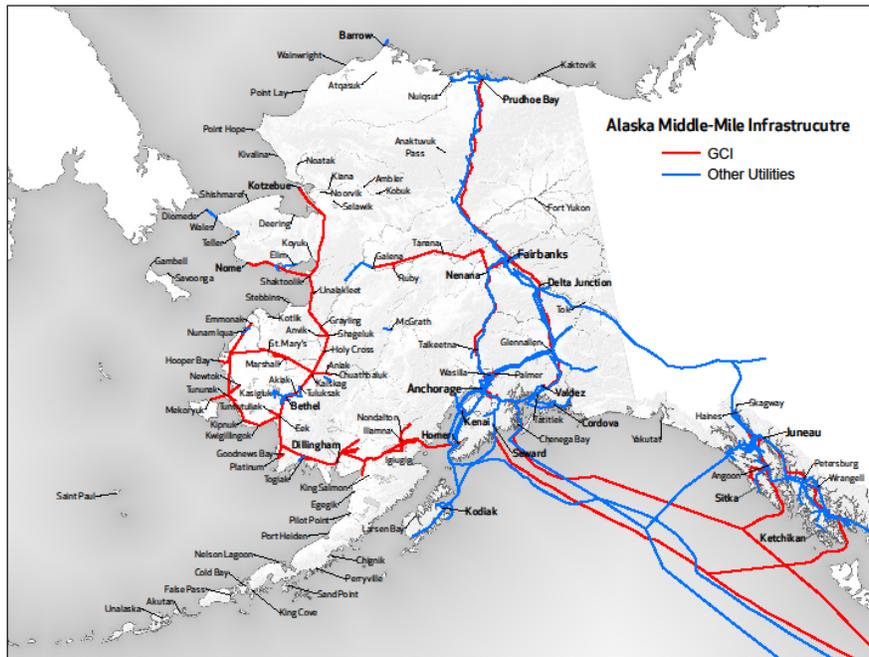


Figure 4: Source: GCI.

Microwave networks can transport data at speeds similar to fiber-optic cable, but do not have the “infinite” capacity characteristics of fiber. A single strand of fiber optic cable can provide hundreds or thousands of Gigabytes of capacity, depending on processing, and most fiber optic cables contain multiple strands of fiber.⁵⁸ By contrast, the overall capacity of TERRA is 3 GB, with plans to increase capacity to 14 GB. As a result, providers cannot typically offer what most Americans would consider “high” speeds and generous capacity because multiple users at those speeds would quickly consume the available throughput. Limiting high-cost support in Alaska only to areas that can meet the Commission’s minimum standards set for the Lower 48 would effectively constrain support within the areas that already have fiber-based middle mile—precisely the areas that least need it.

Similarly, a requirement to offer prices for CETC-supported middle mile comparable to “urban” prices would reduce or eliminate the use of CETC frozen support in areas served by microwave middle mile, as prices in Anchorage, Fairbanks, and Juneau—with their relative density and access to Internet backbone—bear no relation to prices or costs in remote Alaska. As stated above, this is not an effort by ACS to improve the lot of Alaskan consumers, but the

⁵⁸ See Sebastian Anthony, *255Tbps: World’s Fastest Network Could Carry All of the Internet’s Traffic on a Single Fiber*, EXTREME TECH (Oct. 27, 2014 9:04 AM), <http://www.extremetech.com/extreme/192929-255tbps-worlds-fastest-network-could-carry-all-the-internet-traffic-single-fiber> (noting that a single fiber has been shown capable of carrying 32 terabytes per second).

latest iteration of its attempt to secure below-cost rates for an input into its enterprise offerings.⁵⁹ The other Alaska Plan signatories have all taken the real-life cost of middle mile into account as they have proposed their performance commitments that will improve mobile and fixed broadband services throughout the State. ACS's proposed condition to cut middle mile rates to below cost (or not use USF to pay for those costs) would shift the benefit of the Alaska Plan from Alaska consumers to ACS and its enterprise operations.

ACS's last gasp, only recently conjured apparently, is to impose dominant carrier regulation anywhere there is no unaffiliated terrestrial service provider.⁶⁰ ACS would resuscitate dominant carrier treatment for interexchange services when AT&T was relieved of those obligations in 1995.⁶¹ Contrary to ACS's suggestion, imposing dominant carrier regulation would require more than finding that there is "no unaffiliated competitive terrestrial service provider"; the Commission would have to perform its standard market power analysis, which requires definition of the relevant product and geographic markets, and consideration of all the different sources of backhaul, including satellite, that are substitutes or potential substitutes.

Aside from the fact that this last ditch grasp runs absurdly far afield of the universal service policy issues at hand, it is unclear what dominant carrier regulation would accomplish here. GCI already posts its rates for TERRA (as interexchange carriers are required to do), and GCI is subject to the requirements of sections 201 and 202 for its services on TERRA (as interexchange carriers uniformly are). Perhaps ACS is seeking the same tariffing obligations that the Commission has proposed to eliminate for broadband data services.⁶² In all events, this obligation would do nothing for Alaska carriers that they do not already obtain through other means, much less Alaska consumers.

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⁵⁹ See *supra* at 9-13.

⁶⁰ See ACS Apr. 29, 2016 *Ex Parte* Letter at 7.

⁶¹ See *Motion of AT&T Corp. To Be Reclassified as a Non-Dominant Carrier*, Order, FCC 95-427, 11 FCC Rcd. 3271 (1995).

⁶² See FCC Seeks Comment on Framework To Advance Competition in the Business Data Services Market, News Release (Apr. 28, 2016), <https://www.fcc.gov/document/fcc-seeks-comment-competition-framework-business-data-services>.

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ACS blows past the statutory goal of bringing reasonably comparable services to rural Americans. Rather, its proposals reflect its own priorities—minimizing private investment and the accompanying risk, and maximizing opportunities to obtain advantages by imposing obligations on others. Meanwhile, Alaska consumers await improvements to their broadband and mobile connectivity. The Alaska Plan is a fiscally prudent and enforceable plan to bring these improvements. The Commission should adopt it without further delay.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata

Counsel to General Communication, Inc.

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