

# **Exhibit L**

**Public**

September 10, 2018

***Via Email***

Ms. Elizabeth Drogula  
Deputy Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: GCI Rural Health Care Support for Funding Year 2017

Dear Ms. Drogula,

Pursuant to Sections 0.457 and 0.459 of the Federal Communications Commission's ("FCC") rules, 47 C.F.R. §§ 0.457, 0.459, GCI Communication Corp. ("GCI") hereby requests confidential treatment of the attachments that it submits herein. This submission relates to the Telecommunications Access Policy Division ("the Division") review of outstanding Fiscal Year 2017 funding under the Rural Health Care ("RHC") Telecom Program. Specifically, the attachments include a funding proposal for the satellite Funding Request Numbers ("FRNs") under review (the "Confidential Information").

In support of this request, GCI hereby states as follows:

**1. Identification of Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))**

GCI seeks confidential treatment with respect to the content of this filing, which includes the attachments described above (the "Confidential Information").

**2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))**

GCI received information requests from the RHC Telecom Program regarding certain 2017 funding requests of the HCPs for which GCI is a service provider. GCI provided confidential responses to the information requests in November and December 2017 and again on March 30, 2018.<sup>1</sup> Subsequently, GCI met with USAC and FCC staff to discuss the submissions, and the

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<sup>1</sup> See, e.g., Letter from Jennifer P. Bagg, Counsel, GCI Commc'n Corp., to RHC Review, Rural Health Care Program, Universal Serv. Admin. Co. (filed Mar. 30, 2018) ("March 30 Letter").

Division has requested that GCI respond to certain proposals and requests regarding the RHC Telecom Program review.

**3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))**

The information for which GCI seeks confidential treatment contains sensitive “trade secrets or privileged or confidential commercial, financial or technical data,” which would customarily be guarded from competitors. This is sensitive commercial information that GCI does not otherwise make publicly available. As explained below, public disclosure of these measures could cause competitive commercial harm to GCI. In addition, the mere fact that GCI is being asked to respond may cause competitive harm. Therefore, the information in GCI’s response constitutes sensitive commercial information “which would customarily be guarded from competitors.”

**4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))**

The submitted information contains information regarding GCI’s Alaska-based telecommunications services. The Alaskan wireline, wireless, and broadband market (including Ethernet) is subject to competition. In particular, the FCC recently found in the Business Data Services proceeding that the market for Ethernet services is highly competitive.

**5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))**

Disclosure of GCI’s Confidential Information would cause substantial competitive harm. *First*, disclosure would reveal information regarding GCI’s services, including performance characteristics and pricing, and HCP and E-rate customer information. GCI’s competitors and customers could use this information to determine GCI’s competitive position and associated revenues and thereby gain a competitive advantage. *Second*, disclosure of GCI’s Confidential Information would place GCI at a competitive disadvantage, as GCI lacks the same information regarding its competitors. *Third*, disclosure of this information could harm the competitive bidding process in the RHC program.

**6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))**

GCI does not distribute the Confidential Information to the public, government officials, competitors, or customers. Each page of the documentation containing any of the Confidential Information is clearly marked in bold-face type “GCI Proprietary – Not for Public Disclosure.”

Confidentiality Request  
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**7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))**

GCI's Confidential Information is and shall remain unavailable to the public. As noted in Part 6 above, GCI has not previously disclosed to third parties, other than the undersigned counsel, any of the Confidential Information.

**8. Justification of Period During Which the Submitting Party Asserts that Material Should Not Be Available for Public Disclosure (Section 0.459(b)(8))**

GCI requests that the Confidential Information not be disclosed for 10 years from the date of this request. By that time, the sensitivity of GCI's commercial information will have diminished, as market changes will render it increasingly dated, and would make it difficult for competitors to gauge GCI's current market position and revenues.

\* \* \* \*

Should you have further questions or require additional information in order to grant the requested confidentiality treatment, please contact me immediately so that I can provide further assistance to resolve this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Bagg".

Jennifer P. Bagg  
*Counsel to GCI Communication Corp.*

Enclosures

cc: Preston Wise  
Trent Harkrader  
Ryan Palmer  
Carol Pomponio  
Nirali Patel

## **SATELLITE RURAL RATE JUSTIFICATIONS**

GCI herein proposes a methodology to resolve the ongoing review of the rural rate justifications for the outstanding FY2017 Funding Request Numbers (FRNs) for satellite services.

- First, the FCC should immediately approve rural rates and release funds for the [REDACTED] FRNs with satellite services with capacities in the 1.41 to 8 Mbps safe harbor tier (“1-8 Mbps” safe harbor tier). An average non-RHC per Mbps rural rate is calculated based on the [REDACTED] comparable satellite services with capacities between 1 and 8 Mbps that GCI sold in 2016 to commercial and E-rate customers. The average of these rates justifies [REDACTED] out of the [REDACTED] rural rates for RHC customers under Section 54.607(a) on an end-to-end basis. For the [REDACTED] FRNs that have per Mbps rural rates that are *above* the 1-8 Mbps safe harbor rate, GCI would lower such rates to the comparable rate.
- Second, the FCC should release the funds for the [REDACTED] FRNs with satellite services with capacities that are just above the 1-8 Mbps safe harbor tier based on the 1-8 Mbps comparable rate. These rates are all below the safe harbor rate for the 1-8 Mbps tier, but circuit capacities of 9, 10, 12, and 15 Mbps are not so much larger that significant scale economies would be reasonably expected.
- Finally, for all of the remaining FRNs, the FCC should find reasonable those rates that yield returns at or below the actual rate of return GCI realizes on the FRNs justified by the 1-8 Mbps safe harbor comparable rate. That rate of return is the objectively determined market rate of return in a market with four facilities-based providers, in which GCI has lost [REDACTED] percent of bids, and is the only rationally justifiable rate of return. There is no rational or statutory basis for mandating a 10.875% rate of return for a non-dominant interexchange carrier as the Commission has not held a hearing as required by Section 205(a) to prescribe a rate of return. Indeed, the Commission has determined that “Section 205(a) of the Communications Act requires the Commission to give ‘full opportunity for hearing’ before prescribing a rate including the authorized rate of return for rate-of-return carriers.”<sup>1</sup>

### **A. LEGAL BACKGROUND**

#### **The FCC Must Rely on Section 54.607(a) To Justify Rates Where Comparable Rates Are Available.**

- The FCC must accept as a rural rate justification the rates for identical or “similar services,” unless such rates are not available. In other words, neither HCPs nor the FCC can seek to apply other rate justification methodologies where rates for similar services exist.

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<sup>1</sup> *Connect America Fund*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking 31 FCC Rcd. 3087, 3175 ¶ 237 (2016). Although irrelevant to the current review process, the FCC has also on occasion prescribed individual rates in notice and comment rulemaking proceedings in instances where parties have ample opportunity to participate in the prescription process. *See id.* at 3178 ¶ 242 (internal citations omitted).

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- Section 54.607(a) requires the rural rate to be “the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located.”<sup>2</sup>
- The “comparable rate” method of rate justification must be utilized unless the carrier does not provide “any identical or similar services in the rural area,”<sup>3</sup> in which case the rural rate must be calculated as “the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area.”<sup>4</sup>
- If “there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit . . . a cost-based rate” for approval by the FCC or state commission, as applicable.<sup>5</sup>
- In its *2003 RHC Report and Order*,<sup>6</sup> the FCC interpreted the phrase “similar services” with regard to a statutory requirement to compare rates charged in rural areas to rates charged in urban areas.<sup>7</sup>
  - In interpreting this provision, the Commission concluded that it requires “rural health care providers to compare the urban and rural rates for *functionally* similar services *as viewed from the perspective of the end user*.”<sup>8</sup>
  - Based on its view of then-available technologies, the Commission established “‘safe harbor’ categories of functionally equivalent services based on the advertised speed and nature of the service.”<sup>9</sup> It provided five tiers of speeds that were considered, at the time, to be functionally equivalent and noted that the symmetry of the service would also be considered in determining similarity.<sup>10</sup>

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<sup>2</sup> 47 C.F.R. § 54.607(a).

<sup>3</sup> See *id.* (“The rural rate *shall* be . . . .”) (emphasis added); see also, e.g., Letter from USAC to [REDACTED], RHC Telecommunications Program – Rural and Urban Rate Request HCP #s [REDACTED], at 3 (Nov. 3, 2017) (“Note, pursuant to FCC rules, you are required to select (a), unless the service provider is not providing identical or similar services.”).

<sup>4</sup> 47 C.F.R. § 54.607(b).

<sup>5</sup> *Id.*

<sup>6</sup> *Rural Health Care Support Mechanism*, Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd. 24,546 (2003) (“*2003 RHC Report & Order*”).

<sup>7</sup> 47 U.S.C. § 254(h)(1)(A) (requiring carriers serving rural areas to provide “rates that are reasonably comparable to rates charged for similar services in urban areas”); see also *2003 RHC Report & Order* at 24,563 ¶ 31.

<sup>8</sup> *2003 RHC Report & Order* at 24,563 ¶ 33 (second emphasis added).

<sup>9</sup> *Id.* at 24,564 ¶ 34.

<sup>10</sup> *Id.*

**A “Per Unit” Price Comparison Is a Rational Application of the Existing Safe Harbor and Consistent with USAC Practice.**

- Nothing in the 2003 RHC Report & Order establishing safe harbor ranges for the urban-rural comparison or in the rule establishes that the comparison is one of absolute price, as opposed to the price per unit, such as per Mbps or per T-1. Indeed, the fact that the T-1 safe harbor range spans 1.41-8 Mbps (referred to herein as 1-8 Mbps safe harbor tier) suggests that comparison would have to be per unit of capacity.
  - To read the safe harbor otherwise (*i.e.*, as addressing the absolute price) would mean that it encompasses only the situation in which the total contract price for a single T-1 is equal to the total contract price for 5 T-1s (totaling 7.5 Mbps), or an 8 Mbps Ethernet service. Such an interpretation would render the safe harbor useless and irrational.
- GCI has used a “per Mbps” methodology consistently over the years to justify the rural rates in its HCP contracts, and USAC has approved the methodology on multiple occasions.
  - First, in 2009–2010, USAC engaged in an extensive pre-commitment review of one of Alaska’s largest health care providers, the [REDACTED]. At the time of the review, YKHC’s main medical facilities were connected with [REDACTED] sub-regional clinics and over [REDACTED] village clinics. Service was provisioned over the DeltaNet regional microwave network (which was incorporated in the TERRA network). GCI presented as a comparable rate a contract for service provided to a commercial customer, which was compared on a per-Mbps basis. The review culminated in a Funding Commitment Letter (“2010 FCL”) for all [REDACTED] locations and prices for each location.<sup>11</sup>
  - More recently, in August 2015, USAC audited several contracts from FY2012 for which GCI was the service provider. This 2015 audit covered a [REDACTED] clinic that was subject to the 2010 FCL that had been transitioned from the precursor microwave network onto the TERRA network. The 2015 audit also covered three non-[REDACTED] clinics served by Satellite. Here again, GCI used the same methodology to justify its rates, and USAC approved the rates.<sup>12</sup>

**GCI’s Comparable Rates Justify the Rural Rates for Satellite Services in the 1-8 Mbps Safe Harbor Tier on an End-to-End Basis.**

- In its March 30, 2018, submission, GCI submitted comparable rates for similar services for satellite services in the 1-8 Mbps safe harbor tier.<sup>13</sup> Using a per unit or “per Mbps”

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<sup>11</sup> Letter from USAC to David Hodges, [REDACTED], June 24, 2010.

<sup>12</sup> See Letter from Jennifer P. Bagg, Counsel to GCI Communication Corp., to Deborah Gilliland, *et al.*, USA, Oct. 6, 2015, followed by funding commitments for the contracts under review.

<sup>13</sup> Based on feedback from staff in the Wireline Competition Bureau Telecommunications Access Policy Division (the “Division”), GCI brought in its E-Rate customer rates for Ethernet services as part of its average of commercial customer rates.

price comparison, GCI's past submissions fully justify the rural rates in a large percentage of the FRNs under review.

- For purposes of this proposal only, GCI has compared the rural rate for the “end-to-end” service (*i.e.*, transport and local loop), with the comparable rate for transport only. In other words, in this proposal, GCI is not seeking to independently justify the local loop component of the rural rate. For example, if the rural rate is \$5,000, of which \$4,500 is the transport component and \$500 is the local loop component, GCI justifies \$5,000 using only the comparable rate for transport services, even where the comparable rate for transport service results in GCI having to reduce the rural rate component (typically in the range of the rate for the local loop segment of the service). GCI strenuously disagrees with this approach, but proposes it as a means to resolve the funding review.<sup>14</sup>

**The Rural Rates For Satellite Services Above the 1-8 Mbps Safe Harbor Tier Are Cost Based.**

- As described above, if the carrier does not provide “any identical or similar services in the rural area,” the rural rate must be calculated as “the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area.” If “there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit . . . a cost-based rate” for approval.
- Except for the local loop components of the services (which GCI is not seeking to independently justify, but could be justified using tariffs), the services at issue here are detariffed and the rates are otherwise not publicly available. Therefore, to justify rates for which there is no comparable rate or publicly available rate, GCI can submit a cost-based rate for approval.
- The satellite services offered here operate in highly competitive markets where there are at least three other facilities-based satellite providers, in addition to GCI, offering (or with the ability to offer) the same or similar services throughout Alaska.
- Indeed, the RHC satellite services in Alaska are subject to aggressive competitive bidding, with GCI losing over [REDACTED] of its bids for satellite services under the RHC program since 2013.

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<sup>14</sup> In its discussion with GCI, the Division suggested that Section 54.607(a) can only be applied to the rate for an entire end-to-end service, and cannot be applied separately to distinct segments of that end-to-end rate, such as the channel terminations and the middle mile transport. In this context, an analysis limited to end-to-end services and ignoring comparable prices for each component is neither required by the rules nor a logical way to identify the comparable rates that commercial customers pay for similar services. As a practical matter, requiring the comparable non-health care providers to match on an end-to-end basis will make Section 54.607(a) unusable due to variations in channel termination charges among the incumbent local exchange carriers even when middle mile transport charges are the same. This variability is particularly pronounced for services to rural areas, like Alaska, which are served by almost 20 unique local exchange carriers.



**The FCC's Current Satellite Cost Proposal is Unlawful.**

- The rule does not allow the FCC to prescribe a rate of return.
  - 47 C.F.R. § 54.607(b) cannot be read to permit the FCC to prescribe a specific rate of return for services provided under the RHC program. Instead, the rules require the carrier to provide “a justification of the proposed rural rate, including an itemization of the costs of providing the requested service.” GCI has provided such justification in adherence with the rules.
  - If the FCC wishes to prescribe rates, including a rate of return, 47 U.S.C. § 205(a) requires a hearing before the Commission can do so.
- There is no precedent for applying the LEC rate of return to non-LEC carriers. When the FCC adopted the LEC prescribed rate of return, it did so based on a staff study and notice and comment specifically focused on proxies for rate-of-return ILECs, not competitive IXCs.
- As a nondominant carrier, GCI by definition lacks market power, and there is nothing in the market structure to suggest otherwise.

**The FCC Should Use the Actual Rate of Return On The Rural Rates of Satellite Services That Are Justified Under Section 54.607(a).**

- The *actual* rate of return that GCI realizes on the rural rates for satellite services that are justified under Section 54.607(a) is a more accurate measure of what the appropriate rate of return is for rural Alaska interexchange services.
- It would be irrational and arbitrary to impose a substantially lower rate of return on higher capacity services than were realized on lower capacity services of the same type in the same competitive market with four facilities-based competitors, especially when all rates were subject to competitive bidding.
- Using the rate of return on justified rates to justify the rates for higher capacity services is particularly reasonable in the case of the dedicated satellite services that GCI sells. As GCI has explained, there are no meaningful economies of scale for satellite-based services, and there is therefore no price compression for larger bandwidth purchases over satellite, both from GCI's perspective as a buyer of satellite transponders and from its perspective as a seller of satellite-based transport services.<sup>15</sup>
- There is no rational basis for picking any other rate of return.

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<sup>15</sup> See Letter from Jennifer P. Bagg to Elizabeth Drogula, pp. 7-8, May 15, 2018. For the same reason, GCI has argued that the comparable rates in the 1-8 Mbps safe harbor tier should apply equally to all dedicated satellite services regardless of capacity. For purposes of reaching resolution, however, GCI herein proposes an alternative path forward.

## B. SATELLITE RATE DETAILED EXPLANATIONS

There are [REDACTED] FRNs under review that are provisioned via satellite services. Out of these [REDACTED] FRNs, [REDACTED] are in the 1-8 Mbps safe harbor category. An additional [REDACTED] FRN has a capacity of 9 Mbps, [REDACTED] have capacity of 10 Mbps, [REDACTED] have a capacity of 12 Mbps, [REDACTED] have a capacity of 15 Mbps, and the remaining [REDACTED] FRNs have capacities ranging from 20 to 40 Mbps.

### **Rural Rates for Satellite FRNs in the 1-8 Mbps Safe Harbor Are Justified By The Rates of Comparable Services.**

- There are [REDACTED] FRNs for satellite services with capacities that fall in the 1-8 Mbps safe harbor.
- Using 2016 data, GCI has [REDACTED] comparable satellite services with capacities that fall within the 1-8 Mbps safe harbor tier. The comparable satellite services consist of services GCI provides to commercial customers and to customers under the E-rate program.
- Because the capacities within the 1-8 Mbps safe harbor tier range from 1.5 Mbps to 7 Mbps, the only rational way to compare rural rates with the comparable rates is to perform a price per unit comparison. Using a per Mbps breakdown, the average of the comparable rates is: [REDACTED] per Mbps (the “comparable rate”). See Exhibit A for a list of the comparable services.
- GCI compared this comparable rate to the rural rates in the [REDACTED] FRNs for satellite FRNs that fall in the 1-8 Mbps safe harbor range. [REDACTED] FRNs out of the [REDACTED] FRNs have a per Mbps rates that is lower than the comparable rate. The rural rates are justified with the comparable rate without independently justifying the local loop component of the rural rate. USAC can immediately approve these [REDACTED] FRNs that have rural rates that are lower than the comparable rate. See Exhibit B for a list of these FRNs.
- The 5 FRNs that have higher per Mbps rates than the comparable rate are:
  - [REDACTED] with a per Mbps rate of [REDACTED]
  - [REDACTED] with a per Mbps rate of [REDACTED]
  - [REDACTED] with a per Mbps rate of [REDACTED]
  - [REDACTED] with a per Mbps rate of [REDACTED]
  - [REDACTED] with a per Mbps rate of [REDACTED]
- GCI proposes to lower the per Mbps rates for these [REDACTED] FRNs to the comparable rate of [REDACTED] per Mbps. Once lowered, USAC can immediately approve these [REDACTED] FRNs that will have rural rates equal to the comparable rate. See Exhibit C for a list of the FRNs and adjustments.

### **Rural Rates for FRNs That Are Just Above the 1-8 Mbps Safe Harbor (9, 10, 12 and 15 Mbps) Are Justified When Compared With The 1-8 Mbps Comparable Rate**

- There are [REDACTED] FRNs for satellite services with capacities that fall just above the 1-8 Mbps safe harbor. Specifically, these FRNs have capacities of 9 Mbps [REDACTED] 10 Mbps [REDACTED], 12 Mbps [REDACTED] and 15 Mbps [REDACTED]

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- While these services technically fall in the 9-50 Mbps safe harbor tier, GCI does not provision any comparable satellite services within this tier that can be used as price justification under the safe harbor methodology. However, the 1-8 Mbps safe harbor comparable rate is appropriate to use for the [REDACTED] FRNs that fall just above the 1-8 Mbps safe harbor range, because there is no reason to expect significant scale economies from a difference of just 1-7 Mbps capacity.
- All [REDACTED] FRNs have rural rates that are *lower than* the 1-8 Mbps comparable rate. These circuits' rates range from [REDACTED] to [REDACTED] per Mbps, [REDACTED] percent below the 1-8 Mbps comparable rate of [REDACTED] per Mbps. It would be reasonable to approve the rural rates for these [REDACTED] FRNs using the 1-8 Mbps comparable rate.
- At a minimum, the 1-8 Mbps comparable rate should be applied to the [REDACTED] FRNs that have capacities of 9 Mbps and 10 Mbps. There can be no rational justification for disallowing rural rates that are only 2 and 3 Mbps more than the rates approved in the 1-8 Mbps safe harbor tier.
- See Exhibit D for a list of the [REDACTED] FRNs.

### **The Actual Rate of Return of The 1-8 Mbps Services Justifies Rural Rates for All Other Satellite FRNs.**

- The remaining [REDACTED] FRNs are for satellite services that range from capacities of 20 Mbps to 40 Mbps.
- As was apparent from the Division's proposal, the appropriate rate of return to apply has the greatest impact. There is no precedent and no rational basis for applying the 10.875% LEC prescribed rate of return to GCI's remote Alaska competitive interexchange services.
- To find a rational basis for a rate of return, GCI proposes to use the *actual* rate of return that GCI realizes on satellite services that are justified under Section 54.607(a), *i.e.*, those justified by the 1-8 Mbps comparable rate, to calculate appropriate rates for these higher capacity satellite services.
- GCI would either use this approach to calculate the rates for all of the FRNs with capacities above the 1-8 Mbps safe harbor tier or, if the Commission applies the 1-8 Mbps safe harbor comparable rate to FRNs with capacities between 9 and 15 Mbps as urged above, to calculate the rates of FRNs for satellite services at or above 20 Mbps.
- To calculate the actual rate of return for the satellite FRNs in the 1-8 Mbps safe harbor tier, GCI utilized the RHC-only expenses and costs in its satellite cost study submitted on July 2, 2018.<sup>16</sup>
- The actual rate of return for the FRNs with capacities within the 1-8 Mbps safe harbor was calculated as follows:

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<sup>16</sup> This approach also addresses the Division's concerns regarding the use of unsupported (or unjustified) revenues to allocate costs because it only utilizes the revenues for services that are justified under Section 54.607(a).

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- First, GCI calculated the 2017 annual revenue associated with the 1-8 Mbps FRNs at the proposed rates. The associated revenues are [REDACTED]
- Second, GCI allocated costs to the 1-8 Mbps FRNs based on the percentage of bandwidth used by the 1-8 Mbps FRNs out of the total bandwidth used by all satellite FRNs in 2017. All satellite services in RHC are dedicated services, so a “bit for bit” bandwidth comparison is appropriate, *i.e.*, performing any weighted adjustments is unnecessary.
- There is a total of [REDACTED] Mbps associated with the 2017 satellite FRNs. There is a total of [REDACTED] Mbps associated with the 1-8 Mbps satellite FRNs. Therefore, [REDACTED] of the satellite costs in 2017 is allocated to the 1-8 Mbps FRNs.
- Third, GCI subtracted the allocated costs from the 1-8 Mbps FRN revenue to calculate the “net income before taxes and interest” (row 14) and then used the applicable tax rate to calculate the “net income after taxes” (Row 20).
- Fourth, GCI allocated the total capital by bandwidth (row 25).
- Fifth, GCI used the “net income after taxes” as the “allowable net income” (row 27) since this is the income produced by the services with rates that are justified under the rules.
- Finally, GCI divided the allocated total capital by the allowable net income to produce the rate of return. (Row 27/Row 25 = Row 26)
- This calculation reveals that the actual rate of return realized on the 1-8 Mbps FRNs is [REDACTED]. GCI also performed the same calculation using the adjustments that the Division applied in its cost proposal (*i.e.*, deduct \$99,000 from expenses and use the alternative working capital definition). This calculation produces a slightly higher actual rate of return on these FRNs of [REDACTED] (See Exhibit E for the calculation).
- If the FCC allows the use of the 1-8 Mbps safe harbor comparable rate for the FRNs with capacities of 9 to 15 Mbps, the actual rate of return for the 1 to 15 Mbps FRNs would decrease slightly. The actual rate of return is [REDACTED] using GCI’s version of the cost model, and is [REDACTED] using the Division’s version of the cost model. These calculations are depicted in Exhibit E.
- This is the rational rate of return to apply to the circuits that cannot be justified under Section 54.607(a). Although GCI does not sell satellite services above the 1-8 Mbps safe harbor to any commercial or E-rate customers, all these services were subject to competitive bidding in a market with four facilities-based competitors and no market structural reasons to assume that there is market power, as opposed to market returns reflecting high risk (or model and cost allocation imperfections that overstate returns).
- Using the proposed FY2017 rates for satellite services with capacities above 15 Mbps, GCI earned an actual rate of return of [REDACTED] (using GCI’s version of the cost model) or [REDACTED] (using the Division’s version of the cost model). This rate of return is *lower* than the rate of return earned on the rates justified under the 1-8 Mbps safe harbor, and, therefore, the rates should be deemed reasonable and immediately approved.

**Exhibits A-D Redacted in Entirety**