

Exhibit AA



Federal Communications Commission
Washington, D.C. 20554

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Dear Counsel:

Pursuant to section 54.607(b) of the Commission's rules,¹ and subject to the limitations and qualifications stated below, the Wireline Competition Bureau hereby approves cost-based rural rates for funding year (FY) 2017 Rural Health Care (RHC) Program funding requests seeking support for services provided by GCI Communication Corp. (GCI). The approved rural rates are set forth in an Appendix to this letter and will be transmitted to the Universal Service Administrative Company (USAC) for processing consistent with this letter. To provide GCI with certainty, the same cost methodology discussed herein for FY 2017 would be applicable to funding requests that seek support for GCI's services in FY 2018, FY 2019, and later years.

Under section 54.607 of the Commission's rules, rural rates in the RHC Telecommunications Program (Telecom Program) must be calculated by averaging rates that the requesting carrier actually charges non-health care provider commercial customers for identical or similar services in the same rural areas.² If there are no such rates, a carrier must calculate a rural rate in one of two ways.³ It may calculate the rural rate by averaging tariffed or other publicly available rates charged by other carriers for the same or similar services provided to non-health care providers in the same rural area. If there are no such rates, or the carrier reasonably determines that the resulting rural rate is unfair, the carrier may request approval of a cost-based rural rate from the Commission for interstate services or from state commissions for intrastate services. To obtain approval of a cost-based rural rate, "the carrier shall submit for . . . the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner," which must consist of "a justification of the proposed rural rate, including an itemization of the costs of providing the requested service."⁴

While reviewing FY 2017 applications, USAC became concerned that some funding requests seeking support for GCI's services were not supported by documentation showing that it had complied with section 54.607 of the Commission's rules in calculating rural rates—and hence how much GCI could charge the Universal Service Fund for participating in the Telecom Program. USAC subsequently issued

¹ 47 CFR § 54.607(b).

² 47 CFR § 54.607(a).

³ 47 CFR § 54.607(b).

⁴ 47 CFR § 54.607(b).

information requests to GCI for 193 FRNs asking that it substantiate the relevant rural rates in accordance with Program rules.

In a March 30, 2018 submission to the Commission, GCI argued that its requested rural rates for all 193 FRNs under review, including its TERRA microwave, satellite, and terrestrial networks, should be approved based on rates for services that it charges other non-health care provider customers. In that submission, GCI included commercial customer contracts as well as E-Rate contracts setting forth rates for services that it provides schools and libraries. The Bureau noted that GCI had not apparently used the E-Rate contract rates to calculate the rural rates proffered in the FY 2017 FRNs submitted to USAC, but instead used them as an after-the-fact justification that it was charging similar rates to E-Rate customers. Moreover, those rates were not for the same or similar end-to-end services under Program rules and Commission precedent.⁵ To aid GCI's compliance efforts, on May 7, 2018, Bureau staff provided GCI with a larger set of similar end-to-end services that GCI offered to E-Rate customers that could be used to calculate corrected rural rates. In a May 15, 2018 letter, GCI argued that it did not actually provide some services as they were identified in USAC's E-Rate application source data and argued that the E-Rate services that it provides are not similar to those that it provides to RHC customers.

Because GCI could not document or substantiate the legality of its requested rural rates based on rates for the same or similar services that it or other service providers offer to non-health care providers in the same rural areas, GCI was required to seek approval of rural rates for FY17 FRNs seeking support for its services using a cost-based approach. Due to the fact that GCI had never requested approval of cost-based rates from the Commission in the past, Bureau staff worked extensively with the company on the cost study it was required to submit pursuant to Program rules. For example, GCI submitted a summary of the network-wide costs of its TERRA microwave network (costs borne by RHC, E-Rate, and commercial customers alike), but it did not itemize the costs of providing service to its RHC customers. On May 25, 2018, Bureau staff detailed the summary information that GCI must include in a cost study for the Bureau to be able to approve cost-based rural rates, and even provided GCI with a one-page template cost study summary that it could use as a model for providing the necessary information.

Rather than provide the one-page cost study summary requested by the Bureau, GCI submitted several voluminous submissions. On June 18, 2018, GCI submitted its first iteration of a cost study for services provided to RHC customers over its TERRA microwave network and satellite network. On June 29, 2018 and July 2, 2018, respectively, GCI submitted amended cost studies for its TERRA microwave network and satellite services to correct errors in the costs identified in the June 18 submissions by Bureau staff along with additional errors identified by GCI. After numerous meetings and telephone calls to discuss GCI's revised submissions, GCI again revised its cost study for services provided over its TERRA microwave network on August 21, 2018. It did so to correct errors discovered by Bureau staff that resulted in an excessive allocation of costs to RHC customers (among other issues), correct errors that GCI found when addressing the Bureau's questions, and address questions from Bureau staff about the use of speculative cost allocators. On September 17, 2018, GCI submitted a letter in response to the Bureau's remaining questions regarding cost allocations in its TERRA network cost study. Bureau staff also advised GCI that its failure to provide certain information (like the costs attributable to certain ineligible services) would require the Bureau to rely on reasonable proxies in order to approve cost-based rates.

We note that, using data provided by GCI in its July 2 submission, Bureau staff prepared an analysis of GCI's costs of providing satellite services and provided it to GCI on August 22, 2018. On

⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, para. 674 (1997) ("[A]s used in section 254(h)(1)(A), the term 'rate' refers to the entire cost or charge of a service, end-to-end, to a customer").

September 10, 2018, GCI noted only one error in the results of this cost study. It argued that the 10.875% rate of return applied by the Bureau (and by GCI in submissions to the Bureau) should be increased to [REDACTED] to [REDACTED], but did not explain why the factors underlying the Commission's previous Weighted Average Cost of Capital calculations for the smallest carriers in the country (including the carriers of Alaska) would suggest that GCI's rate of return should be roughly [REDACTED].

The Bureau has concluded that the rural rates in the Appendix may be approved based on our review of GCI's itemizations of costs of providing services to rural health care providers in the RHC Program submitted to the Bureau on June 18, 2018, and amended and/or supplemented on June 29, July 2, August 21, September 10, and September 17. Pursuant to this approval, the aggregate of cost-based rural rates that GCI requested for the 153 FRNs in the Appendix is reduced from [REDACTED] to [REDACTED]. That reflects a savings to the Universal Service Fund of [REDACTED]. [REDACTED] had USAC approved the unsubstantiated rural rates that were originally submitted in the FY17 FRNs. We note that we have applied pro rata reductions (separately calculated for satellite and TERRA services) to the originally proposed rates to bring them down to the aggregate costs based on data submitted by GCI. Aggregate reductions are applied pro rata to all affected FRNs for administrative simplicity. We note that the Bureau's approval is limited to the FRNs listed in the Appendix, and does not apply to rural rates for other FRNs, whether in FY2017 or any other funding year. However, to provide GCI with certainty, the same cost study methodology used for FY2017 would be applicable to FY2018, FY 2019, and later years.

We also note that this approval does not extend to [REDACTED] FRNs for [REDACTED] Mbps satellite services that were identified by GCI in Appendix B to its submission to the Commission dated September 10, 2018, and for which GCI has provided information indicating that it is providing similar services to non-health care provider customers. GCI should obtain approval of rural rates for those FRNs from USAC pursuant to section 54.607(a) of the Commission's rules.⁶ The Bureau will transmit the information provided by GCI concerning those [REDACTED] FRNs to USAC for that purpose.

This approval does not constitute the Bureau's acceptance of any other materials or arguments asserted by GCI in support of its request for approval of rural rates under any provision of section 54.607 of the Commission's rules. Moreover, in approving these rural rates, the Bureau makes no other finding as to the ultimate eligibility of the respective applications for funding, in whole or in part. RHC Program funding commitments and disbursements are contingent upon compliance with all Program rules and procedures. Further, all commitments and disbursements issued for the FRNs identified in the Appendix remain subject to future compliance audits and investigations, including verifying the specific cost itemizations submitted by GCI as deemed necessary.⁷ GCI may appeal the funding commitment decisions issued for the FY 2017 FRNs identified in the Appendix pursuant to the processes provided by

⁶ See 47 CFR § 54.607(a). In its September 10th filing, GCI reasserted that rural rates for some of the FRNs seeking support for its satellite services could be calculated using rates that it charges to non-health care provider customers for similar services in the same rural area. GCI identified [REDACTED] E-Rate offerings with [REDACTED] Mbps service and an average monthly rate of [REDACTED], as well as [REDACTED] commercial offerings with [REDACTED] Mbps service and an average monthly rate of [REDACTED] as potentially "similar services." Given GCI's representations regarding the higher quality of service and bandwidth offered to RHC customers than commercial customers, we do not believe GCI is bound to treat these commercial services (with a rate of [REDACTED]) as "similar services" to its RHC offerings under section 54.607(a). And because a rate of [REDACTED] would appear to be below cost for the higher capacity (more than 4 Mbps) services included in the cost study, we do not believe GCI is bound to treat any of these identified offerings as "similar services" to its RHC offerings under section 54.607(a).

⁷ 47 CFR § 54.619(b)-(c); see also 47 CFR § 54.619(d) (requiring service providers to retain documents related to the delivery of discounted services under the Telecommunications Program, and any other document that demonstrates compliance with the statutory or regulatory requirements of the RHC Program, for at least five years after the last day of the delivery of the discounted services).

REDACTED - FOR PUBLIC INSPECTION

the Commission's rules. Given that it is already FY 2018, we have directed USAC to move expeditiously on any such appeals.

We also remind GCI of its obligations in the RHC Program. First, as a telecommunications carrier, GCI must provide service upon receiving a bona fide request from an eligible health care provider.⁸ GCI *may not* deny or cut off service to any existing rural health care provider based on amounts GCI may have hoped to receive from the Universal Service Fund in excess of the approved rural rate. Second, health care providers participating in the Telecom Program are entitled to pay only the urban rate.⁹ GCI *may not* attempt to recover the difference between the rural rate originally requested on any FRN and the rates approved in this letter from rural health care providers. Finally, like all carriers providing telecommunications services, GCI *may not* engage in any unjust and unreasonable practices, and GCI *may not* discontinue service to a community without prior Commission approval.

If you have any questions, please contact me at (202) 418-1591 or Elizabeth.Drogula@fcc.gov.

Sincerely,



Elizabeth Drogula
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁸ See 47 U.S.C. § 254(h)(1)(A) (“A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State”); *see also* 47 CFR § 54.615.

⁹ See § 254(h)(1)(A); *see also* 47 CFR § 54.615(b).

Appendix: FY 2017 Rural Rates Redacted in Entirety