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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEB 27 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
GENERAL COMMUNICATION, INC. )  
 )  
Petition for Preemption Pursuant to )  
Section 253 of the Communications Act )  
of 1934 )

CC Docket No. 98-4

TO: The Commission

**OPPOSITION TO PETITION FOR PREEMPTION**

UNITED UTILITIES, INC.

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February 27, 1998

Its Counsel

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## SUMMARY

GCI's Petition is both premature and inappropriate. The APUC has 3 AAC Section 52.355 under active consideration and is, in fact, awaiting a report from its staff which may figure importantly in whatever successor policy is adopted. The APUC should be allowed to complete its job -- a job that properly belongs to the State commission in the first instance.

Underscoring the misguided nature of GCI's request is the fact that the State policy for which it seeks preemption is mirrored by an FCC policy of its own. The two policies were fashioned in a spirit of dialogue between the two agencies; changes should only be considered based on a mutual dialogue. This is especially important given the potential consequences of a lurch to open entry on universal service in the Alaskan Bush.

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<b>of 1934</b>	)	

TO: The Commission

**OPPOSITION TO PETITION FOR PREEMPTION**

United Utilities, Inc. ("United"), by its counsel, hereby opposes the Petition for Preemption filed by General Communication, Inc. ("GCI").

As demonstrated below, GCI's Petition is both premature and misguided: Premature, because the Alaska Public Utilities Commission ("APUC") has underway a proceeding which contemplates re-evaluation of 3 AAC 52.355; misguided, because the APUC policy is linked to one of the FCC's own policies, and changes in either must be coordinated with changes in the other based on a collaborative effort by the two Commissions.

Accordingly, the Petition should be denied without prejudice to re-filing upon completion of the APUC proceeding. In the alternative, it should be held in abeyance so as to allow the APUC to complete that proceeding and provide

recommendations to this Commission for an appropriate successor policy to guide both jurisdictions.

I.

**INTRODUCTION**

A. **United and Its Subscribers**

United is an Alaskan local exchange carrier certificated by the APUC to provide telephone service in 58 Villages in the Alaskan Bush (a total of 5,000 access lines). United not only owns and operates exchange facilities, but in many of its locations it owns outright or jointly toll interconnect facilities. In 16 of its Villages, United owns and is licensed to operate point-to-point microwave facilities utilized for MTS and WATS interconnection; in 44 other Villages United owns a half-interest in, and operates jointly with AT&T Alascom ("AT&T"), satellite earth stations used to interconnect United's subscribers with the toll network. These earth stations are licensed jointly to United and AT&T pursuant to the Commission's decisions in CC Docket No. 80-584.<sup>1</sup> United is also licensee of numerous Rural Radio/Basic Exchange Telecommunications Radio facilities serving Bush communities.

United's service area is one of the largest of any independent local exchange carrier ("LEC") in the United States covering approximately 70,000 square miles. Most of its communities are in the Calista Region of Western Alaska (including

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<sup>1</sup> See Final Decision in CC Docket No. 80-584, 96 FCC 2d 522 (1984) and Order and Authorization, FCC 95-334, released August 2, 1995 (approving AT&T's acquisition of control of Alascom, Inc.).

St. Lawrence Island not far from Siberia), the Doyon Region of Northern Alaska, and in the Yukon River territories. A map of United's area is attached.

Service to United's communities is among the most challenging on earth. Its territory is characterized by bitterly cold winters, extended darkness during winter months, and extended daylight during the summer. Its communities are isolated. Access to its Villages is by air alone during most of the year; for a couple of months during the summer, certain of United's communities can be supplied by boats and barges from the Bering Sea.

Bush Villages are among the smallest, and certainly the most remote, communities in the United States. In the case of the 58 Villages which United serves, the population ranges from a high of 1,000 in Mountain Village to a low of about 20 persons in Lime Village. The average population is on the order of 250 persons. That population is almost entirely Native American, principally Yupik and Athabaskan. Over 90 percent of the residents depend for their livelihoods on subsistence hunting and fishing with only seasonal employment. More than 30 percent of the families United serves have incomes below the poverty line. Many live in small, crowded houses without indoor plumbing.

Telecommunications facilities play a role in rural Alaska unequaled in the rest of the United States. Lacking access by road, the only ready access which Villagers have to neighboring Villages, to Anchorage, to Fairbanks, or to the Lower-48 is by communications facilities. These facilities are used for tasks taken for granted elsewhere: ordering supplies, medical care, schooling, entertainment, etc.

B. The Bush Earth Station Policy

GCI seeks Commission preemption of Section 52.355 of Title 3 of the Alaska Administrative Code (3 AAC Section 52.355) which in effect precludes the installation of duplicative toll interconnect (MTS) earth stations by new entrants in Bush Villages. This policy mirrors the FCC's own, long-standing prohibition on the construction of duplicative MTS earth stations in the Alaska Bush, a policy which dates back to 1975 at least.

In that year, in the course of resolving competing proposals by Alascom and the State of Alaska for service to the Bush, the FCC determined that there was "little public benefit" in the two parties constructing duplicative earth stations in Bush communities. RCA Global Communications, Inc., 56 FCC 2d 666, 669. Thereafter, in 1980 United petitioned the Commission for the right to own and operate the earth stations in its Villages. In a Notice of Proposed Rulemaking in CC Docket No. 80-584 released in 1980, the Commission proposed to require that toll interconnect earth stations be owned and operated by the LEC certificated by the APUC to serve each respective Bush Village. 81 FCC 2d 304. As explained by then-Commissioner Robert E. Lee in his concurrence with the Notice:

Service to the Alaskan bush has always been a problem, and it will continue to be a problem under this proposal for the simple reason that the service is a burden financially. This Notice merely proposes to shift the ownership of earth stations from the toll carrier to the local exchange carriers. It does not propose to shift the financial burden along with the ownership. Toll ratepayers, both intrastate and interstate, will be expected to continue subsidizing Bush service through the rates they pay for toll calls.

81 FCC 2d at 326.

Ultimately, the Commission determined that in those cases where a local exchange carrier had filed an application mutually exclusive with Alascom, the two carriers would hold equal ownership shares in a single MTS earth station. Final Decision in CC Docket No. 80-584, 96 FCC 2d 522 (1984), on recon. FCC 86-68, released February 25, 1986, on further recon. FCC 86-439, released October 24, 1986. The predicate for the Commission's decision was to:

avoid[ ] duplication of earth station facilities needed to provide essential public message telephone service to these small communities when, for economic reasons, mutual exclusivity exists.

Tentative Decision in CC Docket No. 80-584, 92 FCC 2d 736, 756 (1982); accord Memorandum Opinion and Order in CC Docket No. 80-584, FCC 86-69, supra, at ¶5 (“duplicative facilities create[ ] unnecessary costs to consumers for essential MTS”). As a result of this rulemaking, United acquired a 50 percent ownership interest in the 49 earth stations referenced above.<sup>2</sup>

During the Bush earth station rulemaking GCI staunchly supported 100 percent ownership of the sole MTS earth station by the certificated LEC.<sup>3</sup> However, in 1990 GCI filed a Petition for Rulemaking (RM-7246) with this Commission. That Petition asked the FCC to initiate a proceeding looking toward elimination of the policy

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<sup>2</sup> The Bush earth station policy does not extend to private line facilities dedicated to serving one customer or entity. GCI has installed, and may continue to install, many such earth stations.

<sup>3</sup> Among other things GCI stressed the benefits of local ownership in “improv[ing] and expand[ing] Bush communications and to meet the needs of the Bush communities.” Comments filed March 7, 1983 in CC Docket No. 80-584 at 12.

against duplicative MTS earth stations. Comments were filed on the Petition and it remains pending.

In 1995 GCI asked the Commission for a waiver of the Bush earth station policy so as to allow it to conduct a demonstration of the benefits of duplicative earth stations in 50 selected Bush Villages. After noting that the APUC had granted GCI a counterpart waiver for a two-year period to proceed with the demonstration (i.e. a waiver of the Rule at issue here, 3 AAC 52.355), the FCC stated that it “concur[red] in the APUC’s determination”. General Communication, Inc., DA 96-99, released January 30, 1996. The Commission went on to say that the request for partial waiver, and GCI’s petition for rulemaking, “involve very different levels of relief,” and that “any broad change in our Bush policy will be undertaken in a separate proceeding with ample opportunity for parties to comment.” Id. at ¶¶ 8-9. The waiver was expressly limited so as to “run concurrently with APUC’s two year waiver period.” Id. at ¶ 9.

The waiver issued by the APUC was conditioned so as to protect State ratepayers and ensure that the demonstration produced meaningful results. Bench Order No. 8 in Docket U-95-38, November 9, 1995. Among other things, the APUC required GCI to furnish periodic reports concerning the project. United understands that GCI is to file its next report in March. In determining to grant the waiver the APUC stated:

One of the benefits of allowing this project to proceed on a demonstration basis will be to allow the Commission to gather information on the impact of use of DAMA [demand-assigned, multiple access] technology and of facilities based competition in rural Alaska. Therefore, the Commission will require GCI and AT&T Alascom to file reports on the impact that GCI’s demonstration project has on the market and customer use of interexchange services and on revenue.

Order No. 9 in Docket U-95-38, December 8, 1995 at 29. The APUC further observed that once the data is available it will be better in a position to consider possible modifications to its regulation. Id. at 32.

Even though the demonstration was far from complete, in February 1997 GCI filed a petition with the APUC seeking a declaration that 3 AAC 52.355 is unenforceable under the Telecom Act. The APUC noticed the petition for comment, held a public hearing, and accepted briefs on the issue. In December the APUC determined to postpone a final ruling on the petition pending its receipt of a staff report on the demonstration project.

In deciding to collect more information before issuing a ruling, the APUC majority expressed concerns about the effects of unqualified entry on universal service in the Bush. All three Commissioners expressed the view in various terms that they wanted to see the results of GCI's demonstration project (Commissioner Cook); that there are a number of questions about the impact of APUC-preemption on Universal Service, access charges, and local exchange markets and rates, the pendency of which made action on GCI's petition "premature" (Commissioner Hanley); and that the APUC needs to understand "the impact on not only the urban or more urban community, but also those in the rural areas" (Commissioner Posey).<sup>4</sup> As Commissioner Hanley noted, she had voted for GCI's demonstration waiver and was "anxious to see what has been achieved through

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<sup>4</sup> In this regard, the Alaska Commission has previously determined that outright elimination of the earth station policy posed "considerable risk" threatening "drastically higher" costs and universal service, and that "it would not be prudent to ignore" those risks. Order No. 6 in Docket R-90-1 at 7, 11.

that project.”<sup>5</sup> Ultimately, as noted above the Commission determined by unanimous consent to secure a report from the staff, analyze that data, and allow comment from interested parties.

Concurrently, the APUC has underway a market structure proceeding which looks towards broader changes in State policy in the light of the Telecom Act including the vital issues of universal service, access change, and urban-rural and business-residential rate support reform -- all of which are vital to continued, affordable Bush telecommunications (Docket R-97-12). Comments were filed in this proceeding on January 16, reply comments on February 10.

It is against this background that GCI has filed its Petition.

## II.

### DISCUSSION

#### A. GCI's Petition is Premature: The APUC Should be Allowed to Complete Its Work.

Based on the record discussed above, it is clear that the APUC is moving responsibly and deliberately to harmonize its policies, including Section 52.355, with the Telecom Act. Its decision to await receipt of a staff report on the demonstration project is entirely reasonable, if not mandatory.<sup>6</sup> It is just as clear that GCI's Petition is, for this reason, premature.

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<sup>5</sup> Attachment B. Of the other four Commissioners, only Commissioner Ornquist was on the APUC at the time the demonstration waiver was granted.

<sup>6</sup> The APUC's desire for analysis of GCI's demonstration project is important for several reasons, not the least of which is the risk to public safety. GCI has experienced some unfortunate incidents with its demonstration earth stations including one which exploded in the community of Shungnak -- an event

Conversely, there is no indication whatsoever that GCI is being slow-rolled -- indeed, GCI does not even allege this to be the case. On the contrary, the Petitioner concedes that the APUC is addressing this issue and may issue the ruling it seeks. See, e.g., Petition at 6, 17.

Recall too that the APUC is proceeding on multiple fronts to harmonize State policies with the Telecom Act including, in particular, conducting a market structure proceeding which will likely lead to sweeping changes in the Alaskan telecom marketplace.<sup>7</sup> In short, the APUC has been pro-active and progressive. This is a far cry from the distorted picture GCI paints.

All in all, this is no more than an instance where one particular party is unhappy with the pace of regulatory reform in a particular State -- a State where over 90 percent of the total access lines are in locations where duplicative earth stations may be installed. Order No. 6 in Docket R-90-1, September 6, 1990 at 5. But unhappiness with the pace of reform does not necessarily constitute a violation of Section 253 -- not at least in the absence of some indication that the pace complained of is a pretext to evade the Act which, again, GCI has not alleged.

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which GCI itself has characterized as "very serious," and which required special efforts to protect the safety of residents. U-95-38, April 15, 1997 Report on Battery Safety Issues, at p. 2.

<sup>7</sup> It is also imperative that the APUC be allowed time to make necessary adjustments in carrier-of-last-resort responsibilities. Currently, AT&T Alascom is obligated by law to serve all Villages of 25 residents or more. If GCI is given the open entry it wants, then it is only fair that AT&T Alascom be allowed to exit the market -- a scenario which is quite possible if traffic diverts to a GCI earth station leaving the investment in the existing earth station stranded, i.e. without the traffic and revenues to support it absent exorbitant rate increases for the subscribers that remain. However, changes in the carrier-of-last-resort policy have yet to be formulated, and must be, lest Bush Villages end up with no service at all or service at vastly inflated rates.

There is nothing in Section 253 which dictates the pace of any given State's effort to harmonize its policies with the Telecom Act -- much less mandates a flash-cut from the current policy to one allowing duplicative earth stations. On the contrary, Section 253(d) vests with the FCC discretion to determine whether the record requires preemption in any given case. And in not a single one of the cases cited by GCI has the FCC preempted a state commission which was in the process of conducting a good faith evaluation of a particular policy, which evaluation had not yet been completed.<sup>8</sup>

The Commission's approach towards preemption is, and should be, reflective of "the restrained judgment Congress intended the Commission to exercise in preemption cases". California Payphone Association, FCC 97-251, released July 17, 1997 (Commissioner Ness concurring). This is only appropriate given the nature of our federal system. Accordingly, the Commission should afford the APUC a reasonable opportunity to complete its ongoing proceedings.

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<sup>8</sup> The Commission has preempted under Section 253(d) where State or local authorities have repeatedly denied franchise requests, Classic Telephone, Inc., 11 FCC Rcd 13082, 13085 and 13088 (1996); pet. for review pending, City of Bogue, Kansas and City of Hill City, Kansas v. FCC, Case No. 96-1432 (D.C. Cir. November 22, 1996); see also Memorandum Opinion and Order, FCC 97-335, released September 24, 1997; or denied without further comment an application for a certificate of public convenience and necessity in reliance on a law that was not scheduled to expire for another nine years at the earliest, Silver Star Telephone Co., Inc., FCC 97-336, released September 24, 1997 at ¶¶ 1, 4 and 39; or construed challenged provisions of State law in a manner which conflicted with the Telecom Act, Public Utility Commission of Texas, FCC 97-346, released October 1, 1997 at ¶¶ 7, 9; or issued a formal decision which conflicted with the Act. New England Public Communications Council, 11 FCC Rcd 19713 (1996), recon. denied, 12 FCC Rcd 5215 (1997). This is not one of those cases.

B. GCI's Petition is Misguided: Joint Policies Require Joint Consideration.

Preemption would be especially inappropriate here where the policy under attack parallels a long-established policy of the FCC's own -- one that has been on the books for nearly a quarter-century. Indeed, this policy remains on the books eight years after GCI filed a Petition for Rulemaking seeking its elimination. Any change in the APUC policy needs to be coordinated with consideration of the FCC's counterpart policy and changes thereto. This can only be done effectively in the collaborative fashion which historically has characterized the Commission's special relationship with the APUC on matters Alaskan.

Over the years the FCC repeatedly has sought out and carefully considered the views of the APUC. This has applied in spades to the Alaskan Bush. For example, the Commission established a Federal-State Joint Board for consideration of Alaskan rate integration (CC Docket No. 83-1376). The Commission determined that, absent an agreement to the contrary, the APUC would serve as the arbitrator of any disputes between United and Alascom relative to the operation of joint venture earth stations. Final Decision, 96 FCC 2d at 533. The Commission asked the APUC for its recommendation as to which of two entities, United or Alascom, should be awarded licenses to operate point-to-point microwave facilities serving certain Bush Villages. And, of course, the Commission placed considerable weight on the APUC's determination to waive Section 52.355 in granting GCI an FCC waiver for the demonstration project. As the agency said in the microwave matter referenced above:

The APUC was instrumental in finalizing the joint ownership arrangement between Alascom and United for earth station facilities. It is conversant with the capabilities

of both carriers, and it has an intimate knowledge and understanding of the Bush telecommunications network and the problems of the Bush communities. Furthermore, it has proven itself to be not only highly interested in the development of telecommunications services to the Bush communities, but also an efficient and effective policy implementer. Accordingly, we once again call upon the APUC to use its good offices, this time to assist us in making a determination of how and to whom authorizations for the seventeen point-to-point microwave radio stations should be issued. We ask that it make its recommendations to us within 180 days of the date of this letter. We intend to accord substantial deference to its recommendations.

Letter dated June 7, 1985 to the APUC (Ref. Nos. 6130, 35837) (emphasis added).

Nothing in the record here calls into question the APUC's continued interest in the "development of telecommunications to the Bush communities" (ibid), or its good faith in proceeding to harmonize its policies with the Telecom Act.

The Commission has observed that

interpreting the 1996 Act is not an easy task. It requires the combined efforts of state and local governments, along with those of the Commission.

TCI Cablevision of Oakland County, Inc., FCC 97-331, released September 19, 1997 at ¶ 110. In her recent appearance at a September 29, 1997 APUC Special Public Meeting, Commissioner Ness acknowledged the "unique" issues facing Alaska and the APUC; recognized the overriding importance of Universal Service preservation; and stressed the need for the FCC and the APUC to work together in "a very cooperative fashion" to resolve the issues associated with implementation of the Telecom Act. Tr. 14, 25. GCI's Petition would do violence to that cooperative spirit.

Rather than preemption, the FCC should use GCI's Petition as the occasion to open a dialogue with concerned parties on an appropriate successor to both

the federal and state Bush earth station policies. Anything less would represent a totally unnecessary lurch from one policy extreme to the other without consideration of competitively-neutral alternatives suited to the exigencies of the Bush.

C. The Commission Should Consider a Successor Policy.

By way of encouraging that dialogue, United has urged the APUC, and urges this Commission, to consider options which would grant GCI facilities ownership, without at the same time risking dramatic rate hikes and universal service damage for Bush residents. One possible approach would be to afford GCI the opportunity to acquire a pro rata ownership interest in existing Bush earth stations at net book value. Ownership would be shared with AT&T Alascom in those instances where that entity owns the earth station. It would be shared with AT&T Alascom and United in those instances where the earth station is jointly-owned by the certified LEC and the IXC. It amounts to a 1990s update of the policy which has been in effect for years. Other entrants, if any, would be afforded the same opportunity with corresponding dilution of any existing ownership interests. Such an approach is "fair and balanced." California Payphone Association, supra, at ¶ 31:

- GCI does not want to rely on resale only -- it gets its wish
- GCI wants facilities ownership -- it gets it
- GCI wants competitive equality -- it gets that too.

To be sure, GCI has not been agreeable to United's proposal. But whether GCI is agreeable or not is beside the point: Neither United nor Alascom were agreeable with the joint ownership policy when the Commission announced its decision in 1984.

United wanted to install its own earth station which it contended would be more reliable and efficient than the incumbent's. Alascom, for its part, wanted to preserve its monopoly. In the end, having in mind the extraordinary circumstances presented in the Bush, the Commission decreed that the parties must share ownership and operation in the event of any insoluble disputes with the APUC serving as arbitrator of last resort. They have operated numerous earth stations since that date pursuant to a Joint Venture Agreement with few significant disagreements. There is no reason why this same arrangement can not be made to work for GCI.<sup>9</sup>

Section 253(b) sanctions competitively-neutral limitations on entry which are "necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers." As the Commission has said, a "necessary" limitation on entry means simply a qualification that must be more than just "used," or "useful," or happens to be "a prerequisite for competition"; moreover, that limitation need not necessarily be the "least restrictive alternative". New England Public Communications Council, 7 CR 970, 972 (1997).<sup>10</sup>

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<sup>9</sup> Many of the joint venture earth stations, as well as Alascom's solely-owned stations, have been upgraded to DAMA technology. These upgrades provide the same features as GCI's DAMA stations. Consequently, there is no need to replace all of the existing facilities.

<sup>10</sup> In Public Utility Commission of Texas, *supra* note 8, the Commission preempted a state requirement that new local exchange entrants build their own facilities rather than rely on resale or unbundled network elements. The proposal made here is distinguishable as a necessary and competitively neutral response to the unique circumstances prevailing in the Bush, in contrast to the Texas requirement which was, on its face, competitively biased and not shown to be necessary. See Public Utility Commission of Texas, *supra*, at ¶¶ 82-84, 90. In short, the FCC and APUC should include this option among others in a reevaluation of the Bush policy.

United's proposal is consistent with these guidelines as well as the spirit of Section 259 of the Telecom Act on infrastructure sharing. United does not suggest that it is the only alternative to rescission of the current policy. Rather, United suggests that this proposal and possibly others be explored with the goal of harmonizing Section 253 with the realities of the Bush.

**III.**

**CONCLUSION**

For the foregoing reasons GCI's Petition should be denied. In the alternative, action on the Petition should be deferred pending: (1) APUC completion of State proceedings; and (2) APUC and FCC development of an appropriate successor to the current Bush earth station policy -- a successor which does not threaten universal service.

Respectfully submitted,

UNITED UTILITIES, INC.



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February 27, 1998

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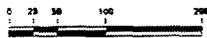
# **ATTACHMENT A**

# UNITED UTILITIES, INC.

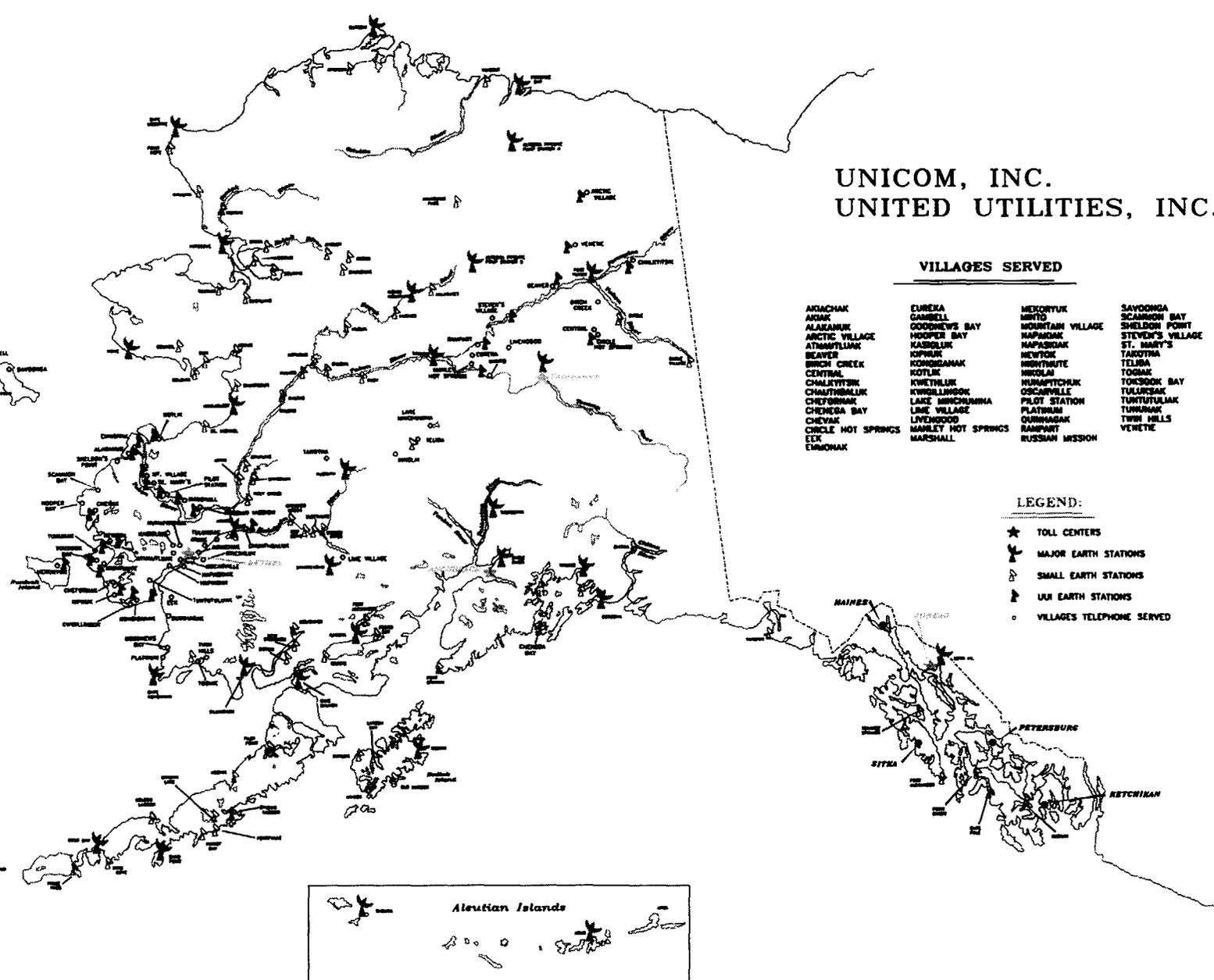
## ALASKA SERVING AREA



NORTH



SCALE in MILES



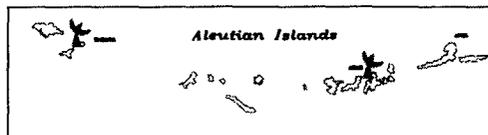
UNICOM, INC.  
UNITED UTILITIES, INC.

### VILLAGES SERVED

AKIACHAK	EUREKA	MEKORYUK	SAVOONGA
ARIAK	GAMBELL	MINTO	SCARRSON BAY
ALASKANUK	GOODNEWS BAY	MOUNTAIN VILLAGE	SHELDON POINT
ARCTIC VILLAGE	HOOPER BAY	NAPASDAK	STEVEN'S VILLAGE
ATHAPTLIANK	KASOLUK	NAPASDAK	ST. MARY'S
BEAVER	KIPRUK	NEWTOK	TAROTNA
BIRCH CREEK	KONGASNAK	NIWTHATE	TELISA
CENTRAL	KOTLIK	NIWTHATE	TOGNAK
CHALEYTSIK	KWETLIK	MUNAPITCHUK	TOGNAK BAY
CHAMTHBALUK	KWILLINGSON	OSCARVILLE	TULUNSAK
CHEFRINAK	LAKE MINCHUMINA	PILOT STATION	TUNTUTULAK
CHESSA BAY	LINE VILLAGE	PLATINUM	TUNANAK
CHEVAK	LIVNGOOD	OURNAGAK	TWIN HILLS
CIRCLE HOT SPRINGS	MARLEY HOT SPRINGS	RAMPART	VERETE
ELK	MARSHALL	RUSSIAN MESSON	
EMONAK			

### LEGEND:

- ★ TOLL CENTERS
- ✱ MAJOR EARTH STATIONS
- △ SMALL EARTH STATIONS
- ⚡ UUI EARTH STATIONS
- VILLAGES TELEPHONE SERVED



# **ATTACHMENT B**

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman  
Alyce A. Hanley  
Dwight D. Ornquist  
Tim Cook  
James M. Posey

ALASKA PUBLIC UTILITIES COMMISSION  
1016 WEST SIXTH AVENUE, SUITE 305  
ANCHORAGE, ALASKA 99501

**PUBLIC MEETING**

December 17, 1997  
9:00 o'clock a.m.

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PROCEEDINGS

Tape 1

0026

(On record - 9:00 a.m.)

CHAIRMAN COTTEN: Good morning. This is the 17th of December. It's about 9:00 o'clock at the Alaska Public Utilities Commission. Present are Commissioners Cook, Ornquist Hanley and myself, Chairman Cotten. And Commissioner Posey is expected shortly so before we take up item number 3 we'll make sure we have a full Commission here today.

As usual, first on the agenda is the opportunity for members of the public to make comments to the Commission. Are there members of the public who wish to be heard today? I see no one who has so indicated.

The second item is the consumer public information report. And our chief of the consumer section is still out ill and it's my understanding we'll postpone this report until next -- the next public meeting. So I think we can go to Item number 4. Ms. Kenyon.

MS. KENYON: There are a variety of things that the APU needs to do to ensure that local carriers instate get Universal Service support by January 1. And these requirements are outlined basically in the public notice that's in tab 1 of the document I've provided to you. Tabs 2 through 4 provide you with the drafts of the recommended letter formats to be sent to

the FCC. I suggest that we, perhaps, send those out within the next week or so.

What I'd like to do is just go over the letters one at a time to give you a feel for what's being proposed here. The letter at tab 2, what that does is just provides the FCC a list of the carriers that the APUC has deemed to be eligible. And we can -- I've come up with a tentative list, but not all the orders are out yet. When the orders are out we can send the letter with the complete list of the utilities, but I suggest we don't wait beyond next Monday or Tuesday to send this letter out because it's due on December 31st. So if need be, we could send the first pass of here are all the LECs that we have orders out on that are eligible, and if necessary send a second letter and say yes, we have additional eligible carriers to add to the list. So that's the intent of this letter at tab 2.

Any questions on that in particular?

COMMISSIONER COOK: Yes.

CHAIRMAN COTTEN: Commissioner.

COMMISSIONER COOK: I'm going through the list, Lori, and I guess I'm looking to Jeanne as well. Is everyone on the list in circulation at this point, do you know?

MS. McPHERREN: About half of them have gone out and another quarter are circulated and another quarter are left to be finalized and circulated.

COMMISSIONER COOK: Okay.