

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
General Communications, Inc.	)	CC Docket No. 98-4
	)	
Petition for Preemption	)	
Pursuant to Section 253 of	)	
the Communications Act of 1934	)	

**REPLY COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION**

MCI Telecommunications Corporation ("MCI") hereby submits its Reply in response to comments filed in the above-captioned docket. Section 52.355 of the Alaska Administrative Code ("AAC") erects a regulatory barrier to entry which is not competitively neutral. It is therefore in violation of Section 253(a) and (b) of the Telecommunications Act of 1996 (Act) and should be preempted by this Commission without further delay.

While the interexchange marketplace is generally competitive across the country, in much of Alaska it remains noncompetitive. This state of affairs persists, not for want of potential competitors, as evidenced by GCI's willingness and ability to compete, but rather because Alaska's long distance marketplace is governed by a regulatory scheme that does not advance competition in all markets as contemplated by the Act. The effect of the APUC rule is to insulate AT&T Alascom from facilities-based competition, much like the incumbent local exchange carriers were insulated from competition before the Act.

MCI strongly disagrees with commenters that request that this Commission defer judgment on Section 52.355 until some uncertain future date -- i.e., until such time as the APUC,

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itself, has had the opportunity to pass upon the issue.<sup>1</sup> MCI does not support such a conclusion.

The state of Alaska and the APUC have had ample opportunity to review their statutes and regulations and bring them into compliance with the requirements of the Act, which has been in effect for over two years. Contrary to United's unsupported claim that "nothing . . . dictates the pace of any given State's efforts to harmonize its policies with the Telecom Act . . . ,"<sup>2</sup> upon enactment, the Act explicitly preempted all state laws that were "inconsistent" with the pro-competitive, deregulatory framework established by Congress.<sup>3</sup> Section 52.355 clearly contradicts the competitive goals of the Act.

Despite the argument that Section 52.355 is "necessary" for the preservation and advancement of universal service, section 253(b) nevertheless mandates that requirements imposed to preserve and advance universal service must be competitively neutral. MCI acknowledges the State's concerns for protecting universal service and the public safety. The manner in which the State has proceeded, however, has a patently discriminatory effect. Indeed, in discussing Section 253(b), the Commission has stated that Congress did not contemplate that States could "protect" rural telephone companies with the competitively restrictive method of a categorical ban on entry.<sup>4</sup>

MCI therefore finds it difficult to accept some Commenters' views that Alaska's

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<sup>1</sup> See APUC Comments at 7-8; Telalaska and Arctic Slope Comments at 13-14; United Comments at 8-10.

<sup>2</sup> See United Comments at 10.

<sup>3</sup> 47 U.S.C. § 261

<sup>4</sup> Silver Star Telephone Company, Inc., Petition for Preemption and Declaratory Ruling, CCB POL 097-1, FCC 97-336 at ¶ 43 (rel. Sept. 24, 1997).

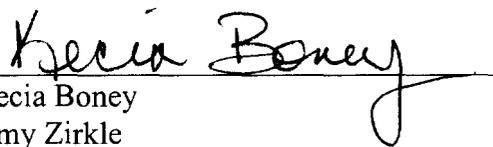
regulatory scheme is competitively neutral, even with Section 52.355, because GCI and other competitors are permitted to compete via lease or resale.<sup>5</sup> As in the local market, Alaska's interexchange market lacks facilities-based competition to the incumbent provider. In order to bring the full benefits of competition to subscribers, the APUC should not limit the avenues through which competitors may enter.<sup>6</sup>

### CONCLUSION

For the reasons stated above, MCI urges the Commission to exercise its preemption authority and declare Section 52.355 invalid without delay.

Respectfully submitted,

MCI TELECOMMUNICATIONS  
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March 16, 1998

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<sup>5</sup> See APUC Comments at 11-12; Telalaska and Arctic Slope Comments at 12; Bristol Bay Comments at 3.

<sup>6</sup> Public Utility Commission of Texas, Petitions for Declaratory Ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995, CCB Pol 96-13, at ¶ 2 (rel. October 1, 1997) (the Commission determined competitors may enter the local market via: (1) construction of their own facilities; (2) use of the incumbent's unbundled network elements; (3) resale of the incumbent's retail services purchased at wholesale; or (4) any combination of the three.

## CERTIFICATE OF SERVICE

I, Lonzena Rogers, do hereby certify that on this 16th day of March 1998, I served by first class United States Postal Service, postage prepaid, a true copy of the foregoing Rply Comments, upon the following:

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