Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Modernizing the E-rate Program for Schools and Libraries	WC Docket No. 13-184

Comments of Alaska Communications Systems
On the NTCA/URTA Petition for Clarification and/or Reconsideration

Alaska Communications Systems ("ACS")[1] hereby submits these comments in response to the "Petition for Clarification and/or Reconsideration of NTCA-The Rural Broadband Association and the Utah Rural Telecom Association," filed September 17, 2014 (the "NTCA/URTA Petition") in the above-captioned docket.[2]

A substantial portion of the E-rate support in Alaska is attributable to the lack of adequate and competitive middle mile facilities providing affordable transport of traffic to rural areas of the state. To address this problem, ACS believes the Commission should fundamentally change its E-rate program in Alaska to limit support in areas served by existing terrestrial and submarine facilities that have received some form of federal support in the past (thus addressing the lack of competition) and use the savings to fund new middle mile facilities providing nearly every Alaskan with terrestrial or submarine middle mile connectivity (thus addressing adequate middle mile facilities Nevertheless, while the Commission is considering such reforms, ACS supports the NCTA/URTA Petition and believes that the Commission should permit schools and libraries located outside of "urbanized areas," as defined by the U.S. Census Bureau, particularly those in

[1] In these comments, "Alaska Communications Systems" signifies the incumbent local exchange carrier ("ILEC") subsidiaries of Alaska Communications Systems Group, Inc., which include ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC, as well as ACS Internet LLC and ACS Long Distance LLC.

[2] *See Public Notice*, "Petitions for Reconsideration of Action in Rulemaking Proceeding," Report No. 3010 (rel. Sept. 24, 2014).

Alaska, to be treated as "rural" for purposes of calculating E-rate discounts, regardless of whether they are found in areas classified by the Census Bureau as "urban clusters."

INTRODUCTION

The Commission recently made certain changes to its E-rate rules, including a change to the basis on which schools and libraries are classified as "urban" or "rural" for purposes of applying the E-rate discounts.[3] Specifically, in its Report and Order, the Commission ceased its reliance on a definition of "urban" previously developed by the Office of Rural Health Care Policy ("OHCP") within the Department of Health and Human Services ("HHS") because that definition is no longer updated by OHCP.[4] Instead, the Commission decided to rely on a different definition of "urban" developed and maintained by the Census Bureau.[5] The Census Bureau's definition of "urban areas" has two sub-parts: "urbanized areas" and "urban clusters."[6] "Urbanized areas" are cities of 50,000 or more people, while "urban clusters" are smaller localities containing between 2,500 and 50,000 people.

New Section 54.505(b)(3)(i) of the Commission's rules, as adopted in the Report and Order, states that a school or library shall be treated as "urban" for E-rate purposes if "the school or library is located in an *urbanized area* as determined by the most recent rural-urban classification by the

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[3] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-99 (rel. Jul 23, 2014) ("Report and Order"). Below the 80% and 90% tiers, which are the same for all schools and libraries, those that are considered "rural" for purposes of E-rate may receive discounts that are 5 to 10 percentage points greater than those available to "urban" schools and libraries, *id.* at ¶ 13.

[4] Report and Order, at ¶ 223, n. 519.

[5] *Id.*

[6] *Id.; see also* U.S. Census Bureau, "2010 Census Urban and Rural Classification and Urban Area Criteria" (available at: https://www.census.gov/geo/reference/ua/urban-rural-2010.html) (visited Oct. 17, 2014).

Bureau of the Census."[7] The accompanying text of the Report and Order, however, is less precise, stating, for example, that "beginning with funding year 2015, schools and libraries located in areas that are not located in *urban areas*, as defined by the most recent decennial Census, will be considered rural for the purposes of the E-rate program."[8] Thus, the text of the Report and Order could create ambiguity leading the Universal Service Administrative Company ("USAC"), which administers the E-rate program under the direction of the Commission, to make the rural E-rate discounts available only to schools and libraries that are not located in *either* an urbanized area or an urban cluster, in contravention of new Section 54.505(b)(3)(i).

According to recent Census Bureau figures for Alaska, over 315,000 people – nearly half of the state's population – resides in the State's two "urbanized areas" of Anchorage and Fairbanks.[9] But, over 150,000 additional people live in Alaska's thirteen "urban clusters," places like Barrow, Bethel, Kotzebue, Nome, Sitka, and others that, in many cases are located in remote areas of the Alaskan Bush.[10] "Bush" communities are often located along the Aleutian Island chain, in difficult-to-reach areas of Alaska's rocky coast, among the coastal islands of Southeast Alaska, and in the state's largely unpopulated interior. Although the Census Bureau may characterize such communities as "urban," most are isolated geographically from infrastructure resources commonly available in the urbanized areas of the state, and from the nation as a whole.

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7 47 C.F.R. § 54.505(b)(3)(i) (emphasis supplied).

8 *Id.* at ¶ 223 (emphasis supplied).

9 *See* Census Bureau, "National List of All 2010 Urbanized Areas," available at: http://www2.census.gov/geo/ua/ua_list_ua.xls (visited Oct.17, 2014).

10 *See* Census Bureau, "National List of All 2010 Urban Clusters," available at: http://www2.census.gov/geo/ua/ua_list_uc.xls (visited Oct. 17, 2014).

Most Bush communities cannot be accessed by road, and are not connected to the state's power grid. The installation, maintenance and repair of communications facilities in these communities requires that technicians, as well as materials, arrive by plane, barge, snow machine, all-terrain vehicle, or other off-road transportation means. Weather also can render them inaccessible for days on end. Communications services in these communities generally depend on satellite or microwave transport links to population centers in Anchorage, Fairbanks, or Juneau.

DISCUSSION

ACS supports the NTCA/URTA Petition to the extent that it seeks to exclude "urban clusters" – particularly those in Alaska – from the definition of "urban" for E-rate purposes. However, ACS believes that the affordability of E-rate service in rural and Bush Alaska is affected more by the exorbitant – and unregulated – rates for access to bottleneck middle mile terrestrial transport facilities than it is by the availability of an additional 5 or 10 percentage point E-rate discount for schools and libraries classified as "rural." Scarcity of terrestrial middle mile transport is the single biggest obstacle to broadband deployment in Alaska today, particularly in rural and Bush areas. Terrestrial middle mile transport capability to many rural Alaskan communities, where it exists at all, often depends on a single provider of service at unregulated rates, despite a lack of competitive substitutes for their offerings and despite having received some form of federal support for these facilities. In addition to receiving E-rate support, these facilities have typically received Rural Health Care support, High Cost support, Low Income support, and in some cases the RUS Broadband Initiatives Program ("BIP") and/or NTIA's Broadband Technologies Opportunities Program ("BTOP") support. Regardless of all the support funds received for these facilities, the price of services supported by E-rate and the rural

health care mechanisms is often far beyond what a competitive market would produce, burdening E-rate applicants and diverting scarce E-rate funds away from other worthy uses.

ACS believes that, until middle mile transport becomes sufficiently competitive in Alaska – and given the vast distances and low population density involved, that day is likely far off – the Commission should reduce the price of E-rate services to applicants served by terrestrial and submarine middle mile facilities in Alaska that have received some level of federal support by limiting the amount of support that is available to service providers using these facilities to a small percentage increase over the rates prevailing in Anchorage. As one formulation, ACS suggests that E-rate and rural health care support over terrestrial facilities (and submarine fiber facilities) already benefitting from some federal support be limited to no more than twenty-five percent in excess of the price for similar services in urban areas.

ACS recognizes that the Commission would probably need to conduct further rulemaking proceedings in order to implement such changes to the E-rate program. In the meantime, ACS supports the NTCA/URTA Petition. Many "urban clusters" in Alaska are located in remote, difficult-to-reach areas that are genuinely very costly to serve. These schools and libraries, which often serve small Bush communities with limited resources, have similarly limited budgets for broadband and other information technology services. The incremental E-rate support that is available to these schools and libraries as a result of a "rural" classification for E-rate purposes can make a profound difference in the services they are able to offer to students and library patrons.

While the Report and Order describes "urban clusters" as "adjacent territories . . . that link to the densely settled core" of an urbanized area,[11] that description simply does not fit most of the Alaska communities that the Census Bureau characterizes as urban clusters. In Alaska, an urban cluster may be hundreds of airline miles from Internet traffic aggregation points in Anchorage and inaccessible by road from either of the state's urbanized areas in Anchorage and Fairbanks, and linked to the broader communications network only by satellite connections. Even once Internet traffic reaches Anchorage, it must travel thousands of miles more on undersea cables to Internet access points in the lower 48 states. The cost characteristics of delivering traffic among points within the urban cluster are virtually inconsequential in comparison to the cost of the necessary middle mile transport. Treating these communities as "urban" for E-rate purposes would defy both logic and the purposes of the E-rate program itself.

[11] Report and Order at ¶ 223.

CONCLUSION

For the foregoing reasons, the Commission should (1) conduct further rulemaking proceedings to limit the amount of E-rate support available to providers of terrestrial and submarine middle mile transport services in Alaska, particularly where those providers have accepted federal grant award funding to construct the facilities that provide such services; and (2) rule that schools and libraries located in "urban clusters" at least in Alaska will be treated as rural for purposes of eligibility for E-rate discounts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Sections Section 1.27 and 1.106 of the FCC's rules, the foregoing Comments of Alaska Communications Systems on the Petition for Clarification and/or Reconsideration of NTCA-The Rural Broadband Association and the Utah Rural Telecom Association in Docket WC No. 13-184 are being served in electronic form this 22nd day of October, 2014 on the petitioners in the proceeding (listed below).

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