KAREN BRINKMANN PLLC
TELECOM, MEDIA & TECHNOLOGY LAW

1800 M Street, NW
Suite 800
Washington, DC 20036
Sender's Direct Line: 202.365.0325
KB@KarenBrinkmann.com

April 29, 2016

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Connect America Fund et al.*, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92

Dear Ms. Dortch:

The Commission is considering a regulatory framework "tailored to the unique circumstances that exist in Alaska."[1] The Alaska Telephone Association ("ATA") and Alaska's largest broadband provider, General Communication, Inc. ("GCI"), argue that Alaska's rate-of-return local exchange carriers ("ROR LECs") as well as some of the competitive eligible telecommunications carriers ("CETCs") in the state should be guaranteed continuing high-cost support at levels above the current level of frozen support for a ten-year period, with specific performance obligations to be negotiated with FCC staff at a later date.[2]

Alaska Communications supports the ROR LECs receiving frozen support for ten years in exchange for appropriate broadband obligations and accountability safeguards that are established before support is distributed.[3] However, the CETC portion of the ATA proposal raises serious concerns about whether high-cost support would be used in the public interest. The Commission has insisted on accountability among all high-cost recipients as part of its new Connect America Fund ("CAF") regime. The same should be required of any CETCs who

---

1 *Connect America Fund, et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90 *et al.*, FCC 16-33 (rel. March 30, 2016), n. 10 ("*ROR CAF Order*").

2 Letter from Christine O'Connor, ATA, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov. 19, 2015).

3 Although ROR LEC and CETC support are currently flowing, the ATA proposal seeks a significant increase in both; the Commission should not implement such an increase until it has established appropriate broadband conditions and accountability safeguards for these funds, in accord with the conditions discussed in this letter.

continue to receive support, and especially for CETCs receiving increased support for an extended period.[4]

The Commission Should Make a Specific Allocation of Middle Mile Support For Alaska

Alaska Communications has long advocated that high-cost support should be identified specifically for the deployment of high-capacity terrestrial middle mile capacity in Alaska. Alaska Bush communities are uniquely isolated from not only advanced telecommunications capability but also basic electrical and transportation networks. Residents in these isolated Alaska communities simply have no possibility of obtaining broadband-based services until this essential communications capability is made available. Unlike rural areas of the lower 48 states, where long customer loops are a common broadband deployment challenge, Alaska Bush communities are themselves relatively compact, but are frequently separated from each other and from the core infrastructure of the state by hundreds of miles of wilderness, making middle mile challenges the biggest obstacle to broadband deployment in Alaska.

ATA and GCI concede that they will be unable to provide either wireline or wireless broadband capacity meeting the Commission's nationwide performance standards to all of the unserved locations in their service areas in the absence of sufficient and affordable middle mile capacity.[5] They propose that the Commission provide CETCs *nearly a billion dollars* over ten years to support some combination of mobile wireless last-mile coverage and middle-mile capability (including the backhaul necessary to deploy wireless broadband in the Bush).[6] The

---

4 The Commission in 2011 ordered the nationwide elimination of all CETC support that had been received under the now-discredited "identical support" rule. *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al*., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), ¶ 502 ("*Transformation Order*"). Though the phase-down is temporarily frozen, pending adoption of Mobility Fund Phase II rules, there can be no question of the Commission's intention that future CETC support must be accompanied by much greater accountability, whether under the Mobility Fund program or under CAF.

5 Letter from Christine O'Connor, ATA, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed Nov. 19, 2015), "Alaska Plan Performance Obligations" (showing projected broadband capability for individual ATA members, several indicating that inadequate or unaffordable middle mile capacity will be a factor limiting their broadband capability even after using the ten years' worth of support proposed under the ATA plan).

6 *See* Letter from Christine O'Connor, ATA, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed March 21, 2016), Attachment, "Alaska Plan Universal Service Support Schedule." *See also* Letter from Christine O'Connor, ATA, to Marlene Dortch, FCC Secretary, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed Jan. 15, 2016) at 3 ("For both fixed and wireless deployments, providers will continue their impressive improvements to critical middle-mile infrastructure to support both technologies"); Letter from John Nakahata, Counsel to General Communication, Inc. to Marlene Dortch, FCC Secretary, WC Docket Nos. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed Jan. 14, 2016) at 3

failing in this proposal is that the proponents offer no specific, enforceable metrics by which the Commission could determine if the support was being used in the public interest, though it is clear that new or improved terrestrial middle mile is *essential* for the delivery of retail wireless and wireline broadband services in most of Alaska's remote communities.

Alaska Communications proposed that the Commission allocated middle mile support to an independent entity that would deploy and operate that capacity for the benefit of all unserved areas of Alaska, and would not compete with retail voice or broadband providers but rather would act as a "carrier's carrier" providing wholesale capacity to all retail service providers on affordable and non-discriminatory terms. ATA and GCI propose a different approach under which each Alaska ROR LEC and CETC (but not Alaska Communications, though it, too, serves dozens of Bush communities) would receive support sufficient to construct middle mile (as well as last mile) facilities. Accordingly, it is critical that this support be used, and the ensuing facilities be administered, in a way that benefits all of Alaska's remote communities, and enhances rather than stifles competition.

All other high-cost support the Commission has awarded under its reformed 2011 Connect America Fund framework has been tied to specific obligations for deployment of broadband in specific geographic areas, at minimum defined speeds and with adequate capacity, within latency allowances that will permit real-time voice and broadband applications, and at rates no higher than the applicable reasonable comparability benchmark established by the Commission. It is appropriate, and indeed necessary, that the Commission grant the requested support for the deployment of broadband-capable middle mile capacity to unserved areas of Alaska. As discussed below, however, the same types of obligations that apply to other CAF programs must be tied to receipt of middle-mile funding under ATA's plan.

The Commission Should Allocate At Least 80 Percent of CETC Support under the ATA Proposal to Deploy and Operate Terrestrial Middle Mile Facilities in Alaska

The first matter the Commission must decide is how much support should be dedicated to middle mile or backhaul capacity. Alaska Communications believes that the record supports an allocation of at least $800 million for the deployment and operation of robust, accessible and affordable middle mile serving Alaska's 188 Bush communities.

In Alaska Communications' experience, it is unlikely that more than $200 million would be needed for last-mile cell site deployment and operation covering the entire Bush in the course of ten years. GCI's own research supports this conclusion. Under analysis performed by the Brattle Group for GCI, new cell sites for mobile wireless services in the Bush may be deployed for $461,112 per new cell site.[7] Operating and maintenance costs for each of these new cell sites

("GCI's middle-mile investment provide infrastructure for both GCI's mobile wireless operations and the local ILEC").

[7] Letter from John Nakahata, Counsel to GCI, to Marlene Dortch, FCC Secretary, WT Docket No. 12-187 (filed Jan. 31, 2013), encl. The Brattle Group, "Alaska Mobile Broadband Cost

are estimated by the Brattle Group to be $53,531 annually, or $535,307 for ten years.[8] Thus, under GCI's expert analysis, the total cost of deploying and operating a broadband-capable mobile wireless cell site in unserved parts of Alaska for ten years would be just under $1 million for each new cell site. Therefore, allocating $200 million in support would more than cover the deployment of new cell sites to all 188 Bush communities, including the handful of communities requiring more than one cell site. Some Bush communities already are served by cell sites. Most Bush communities can be served by a single cell site. Considering that many Bush communities already are served by cell sites, or would only require a less costly upgrade,[9] an allocation of $200 million over ten years appears more than adequate to cover the entire deployment and operating cost for every Bush community, *even if the CETC invests none of its own funds whatsoever* in the effort.[10]

Therefore, given that the total cost to deploy and operate broadband-capable last-mile wireless networks serving the Alaska Bush can reasonably be expected to be under $200 million, the ATA proposal leaves at least $800 million available to deploy and operate terrestrial middle mile and backhaul capability.[11]

The Alaska Broadband Task Force estimated that about $640 million ($610 million for new construction of fiber and microwave facilities, and $30 million to upgrade existing microwave systems) would be required to construct terrestrial fiber and microwave middle mile facilities necessary to deliver 100 Mbps broadband Internet access service to every household in the state, performance that would far exceed the Commission's CAF Phase II requirements.[12]

If the Commission concludes that GCI and the other rural Alaska CETCs are justified in requesting a billion dollars, these carriers should be required to identify what portion of that amount will be devoted to deploy and operate facilities to be used for terrestrial backhaul and middle mile capacity. Alaska Communications believes that it should be at least $800 million.

Model" (Jan. 2013) at 10 (showing new build capital cost of $77,466,782 for 168 new cell sites).

8 *Id.* at 12 (showing operating and maintenance costs for 168 new cell sites of $36,385,272 for five years).

9 *Id.* at 10 (Brattle Group estimates the cost of upgrading an existing cell site to be $212,299 – less than half of the cost of a new site).

10 CETC recipients of this support should assume the deployment obligation to all Bush communities served by their wireless operations, even in locations where they do not serve as the incumbent LEC.

11 *See* Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed April 18, 2016) at 5.

12 Statewide Broadband Task Force, "A Blueprint for Alaska's Broadband Future" (Oct. 24, 2014) at 33 (available at: http://www.alaska.edu/oit/bbtaskforce/docs/Statewide-Broadband-Task-Force-Report-FINAL.pdf).

Experience has shown that the Commission should not merely assume that CETCs will construct middle mile capacity that will be sufficient for all local voice and broadband service providers to offer services meeting the Commission's speed, capacity, latency and affordability standards, or to make such capacity available on an affordable and nondiscriminatory basis to unaffiliated service providers. Rather, the Commission must enact defined build-out and performance requirements and specific reporting obligations, with appropriate enforcement mechanisms for failure to comply with the conditions of support. As Alaska Communications has documented many times in this proceeding, the Rural Utilities Service's award of $88 million in Broadband Initiatives Program ("BIP") funding to GCI to build Terra-SW resulted only in an undersized, microwave-heavy middle mile network that GCI operates as an unregulated monopolist, charging would-be competitors and the Commission's rural health care and E-rate universal service mechanisms rates that are double or triple the cost of equivalent satellite-based capacity and approximately 300 times the cost for similar services in the nearest urban area, Anchorage, Alaska.[13]

To ensure that middle mile support is used for the purpose for which it is intended, the Commission must adopt specific and enforceable conditions mandating construction of broadband-capable middle mile facilities with sufficient capacity to meet foreseeable demand, based on the speed and usage (capacity) benchmarks the Commission has established across its various universal service support mechanisms, as well as mandating competitive access to such middle mile capacity under affordable and non-discriminatory rates, terms, and conditions. The adoption of such rules, in advance of awarding CETC support will ensure that broadband build-out is designed from the outset to achieve the Commission's goals. Alaska Communications proposes appropriate rules below based on well-understood and time-tested principles and mechanisms that the Commission has used to safeguard the public interest many times in the past.

Appropriate Safeguards Will Hold CETCs Accountable For, and Ensure That the Public Benefits From, Their Receipt of High-Cost Support For Middle Mile Deployment In the Bush

In a meeting among Alaska Communications, the Wireline Competition Bureau and Wireless Telecommunications Bureau on Wednesday, April 20,[14] it was suggested that Alaska Communications propose specific conditions on CETC support that would address these concerns about the adequacy of middle mile constructed under the ATA proposal, and the terms

[13] *See, e.g.*, Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed April 18, 2016) at 5-7; Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed March 11, 2016) at 3-4; Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90, Attachment, "Closing the Middle Mile Gap In Alaska," (filed Nov. 19, 2015) at 8-9.

[14] *See* Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90, 05-337, 14-58, 07-135, WT Docket No. 10-208, and CC Docket No. 01-92 (filed April 21, 2016).

of access to any middle mile put into service in connection with the pending proposal. This letter is intended to be responsive to that suggestion.

Condition 1. CETCs should be required to spend at least 70% of their support to deploy and operate terrestrial middle mile facilities on routes where such facilities do not exist with sufficient capacity to meet demand based on speed and usage benchmarks the Commission has adopted across its universal service mechanisms. Under Section 254(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 254(e), universal service support must be used for the purpose for which it is intended. If a significant portion of this support is intended for deployment and operation of terrestrial middle mile capacity, the Commission's rules should include a mechanism whereby the CETC recipient demonstrates (subject to audit by USAC or the Commission) (a) how much middle mile capacity was deployed, (b) on what routes, (c) with what performance characteristics, and (d) with what capacity for future growth. The Commission should review these filings to ensure that CETC recipients of this support deploy broadband-capable middle mile capacity *to all Bush communities served by their wireless operations that lack sufficient capacity today* (regardless of whether they offer wireline service to those locations as a LEC).

This condition parallels the conditions in the CAF rules that all carriers receiving support report the locations to which they have deployed high-speed, interactive broadband services, including Broadband Internet Access Service ("BIAS") and real-time Voice Over Internet Protocol ("VOIP") Service meeting the Commission's criteria for minimum speed to the end-user, minimum end-user usage capacity, and maximum latency (suitable for real-time voice and broadband applications) that is reasonably comparable to the services offered in urban areas.[15]

Moreover, the Commission should ensure from the outset that CETCs intend to construct *sufficient* capacity to meet the Commission's speed and usage benchmarks established across its various universal service mechanisms. For example:

- In CAF Phase II, the Commission has established a minimum speed of 10 Mbps downstream and 1 Mbps upstream, with 150 GB of usage per month, with increased speeds of 25 Mbps downstream and 3 Mbps upstream in a subset of the carrier's locations.[16]
- For BIAS eligible for low-income support, the Commission requires for fixed broadband minimum speeds of 10 Mbps upstream, 1 Mbps downstream, with a 150 GB monthly usage allowance; the Commission requires for mobile services at least 3G technology or higher, with phased-in minimum monthly data usage allowances increasing from 500 MB to 2 GB, and set thereafter based on national average usage data;[17]

---

15 47 C.F.R. §§54.308, 54.309.

16 *See, e.g.*, 47 C.F.R. §§ 54.308(a)(1), 54.311(d); *ROR CAF Order, supra*, ¶ 29.

17 *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) at ¶¶ 86-87 (fixed), 93-96 (mobile).

- For schools and libraries, the Commission has set a target of at least 100 Mbps per 1,000 students and staff (users) in the short term and 1 Gbps Internet access per 1,000 users in the longer term.[18]
- For rural health care providers, the Commission has recently created the Healthcare Connect Fund, increasing the level of support available for broadband Internet access service, which may be reasonably expected to increase demand for these services.[19]

The Commission should ensure that adequate capacity is available for access by multiple service providers seeking to provide competitive end-user voice and broadband services, and for all end-users to make use of state-of-the-art broadband applications, such as real-time interactive video telecommunications used for tele-health and tele-education applications. To ensure that the public may benefit from the retail competition made possible by middle mile deployment, no single retail service provider (together with all of its affiliates) should be permitted to have access to more than fifty percent of the middle mile capacity to any location. As demonstrated above, there is likely to be at least $800 million or more available to CETCs to construct and operate middle mile facilities necessary to close the middle mile gap. Sufficient capacity should be deployed so that end-users may be served by more than one provider of wireline and wireless retail broadband services, and multiple providers may bid to provide tele-health and tele-education services, applying competitive pressure to the prices for those services.

It should be expected that there will be only one such deployment in Alaska – the Alaska bush communities at issue here are not large enough to support the investment of sufficient private capital to make the deployment of even one terrestrial broadband-capable middle mile facility commercially viable, let alone two. Therefore, the Commission should ensure that supported facilities are designed to reach the maximum number of unserved communities with adequate capacity for both wireline and wireless wholesale and retail services, including for competitive services and future growth, in mind at the planning stage and throughout the supported period.

Condition 2. Carriers constructing and operating middle mile facilities where there is no unaffiliated competitive terrestrial service provider will be regulated as dominant telecommunications carriers on those routes. The broadband-capable backhaul or middle mile facilities to be constructed using CETC support will, by definition, be bottleneck facilities – no other provider serves these routes with terrestrial capacity suitable for broadband applications, and the absence of alternatives has proven to be a barrier to entry for carriers desiring to provide end-user services on these routes.

This condition thus is necessary to ensure that CETCs do not abuse their monopoly position, but provide access to middle mile transport (as a telecommunications service) for competing retail service providers upon request, at rates, terms and conditions that are affordable

---

[18] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order, 29 FCC Rcd 8870 (2014), ¶ 34.

[19] *Rural Health Care Support Mechanism*, 27 FCC Rcd 16678 (2012) (launching Healthcare Connect Fund).

and reasonably non-discriminatory (including as between the CETC's own affiliates and non-affiliated service-providers). The model for this condition is dominant carrier regulation, which has served the Commission for decades in ensuring that bottleneck facilities are operated for the benefit of the public, not used to enrich a monopoly operator at the expense of customers and competitors.[20] When the operator is receiving substantial amounts of public support to provide service over a monopoly facility, it is all the more essential that proper safeguards be put in place to ensure that the benefits of that support flow through to consumers.

Condition 3. Supported services and facilities must be offered at rates that are reasonably affordable and reasonably comparable to the rates for comparable services and facilities in urban areas. This condition is required by Section 254 of the Communications Act.[21] For middle mile, this should permit retail services to be offered in remote communities at prices meeting the Commission's reasonable comparability standard for voice and broadband services to end-users.[22] The Commission may establish a safe harbor that middle mile rates will be deemed "reasonably comparable" if they do not exceed rates for comparable backhaul in Anchorage (the only urban area of Alaska).

---

[20] All telecommunications carriers providing interstate telecommunications services are subject to service and non-discrimination requirements under Sections 201, 202 and 214 of the Communications Act, and Part 64 of the Commission's rules, but the Commission has enforced those requirements differently for access dominant and non-dominant carriers based on the former's ability to control the price of bottleneck facilities deemed essential to provide services to the public, and thereby impede new market entrants. *See Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, 85 FCC 2d 1, ¶¶56, 59 (1980) (subsequent history of CC Docket 79-252 omitted). Similarly, incumbent LECs ("ILECs") have special network access and non-discriminatory obligations not applicable to competitive LECs ("CLECs") under Sections 222, 251 and 252 of the Communications Act. Again, the premise for this differential treatment is the ILEC's control over bottleneck facilities necessary for competitors to serve the public. *See, e.g., Petition of US Telecom for Forbearance of ILEC Obsolete Legacy Regulations*, FCC 15-166 (rel. Dec. 28, 2015), Memorandum Opinion and Order in WC Dockets 14-192, 10-90 *et al*., ¶56 (discussing the duties imposed uniquely on incumbent LECs to open their networks to competitors under the Telecommunications Act of 1996).

[21] 47 U.S.C. §254(b)(3).

[22] The Commission's "reasonable comparability" benchmark is $118.88 per month for voice and CAF Phase II-compliant 10/1 Mbps service that includes 100 GB of usage. *Connect America Fund*, WC Docket No. 10-90, Public Notice, "Wireline Competition Bureau Announces Results of 2016 Urban Rate Survey for Fixed Voice and Broadband Services and Posting of Survey Data and Explanatory Notes, and Required Minimum Usage Allowance for ETCs Subject to Broadband Public Interest Obligations," DA 16-362 (Wireline Competition Bur., rel. Apr. 5, 2016) at 1-2 (establishing a reasonable comparability benchmark of $41.07 per month for voice service and $71.17 per month for 10/1 Mbps broadband Internet access service with 150 GB of usage).

Condition 4. Receipt of CETC high-cost support should be conditioned upon annual certification and reporting, and subject to appropriate enforcement safeguards. Like other high-cost support recipients, CETCs should file annual certifications affirming their compliance with these conditions, and demonstrating specifically how CETC support was used in the preceding year. This is consistent with the CAF rules for price cap and ROR LECs.[23] Moreover, enforcement of these conditions could include requiring letters of credit, reducing support for failure to deploy or operate in accordance with the conditions, penalties and forfeitures, and disqualification from universal service programs in the future. The Commission has adopted a similar range of enforcement mechanisms for other Connect America Fund support.

Condition 5. Duplication of CETC support should be minimized. The Commission has begun phasing out legacy CETC support throughout the nation. CETCs in remote Alaska have not yet been subject to a diminution in support because of the two extra years provided by the Commission exclusively for those areas, and the subsequent freeze of the phase-down, pending adoption of Mobility Fund Phase II rules.[24] The ATA proposal now seeks to extend all CETC support – even for CETC networks that overlap each other and that of the wireline ETC – for ten more years in remote Alaska. If the Commission determines that it should violate its conclusion in the 2011 USF/ICC Transformation Order not to support multiple networks, it should, at a minimum, eliminate this duplicative support in cases where two CETCs become affiliated, such as through acquisition or merger.[25] In such a case, there can be no justification for continuing both CETC high-cost support payments to the affiliated or merged entities.[26] This condition will benefit all of remote Alaska by helping to ensure that support is distributed where it is most needed.

With these five straightforward conditions, the Commission can allocate the requested $800 million to middle mile deployment and operation over ten years, and be confident that it will be used for much-needed middle mile facilities that are adequate, affordable, and accessible by all, and the public will benefit from this major infrastructure investment.

Conclusion

Accountability, transparency and efficiency are hallmarks of the new universal service regime begun under the 2011 *Transformation Order*. Without appropriate conditions, the Commission risks creating new private telecommunications bottleneck facilities to be operated as unregulated monopolies, funded at public expense without public benefit. Specific, well-

---

23 *See* 47 C.F.R. §54.313.

24 47 C.F.R. § 54.307(e)(5) (extending CETC support at June 30, 2014 levels pending implementation of Mobility Fund Phase II).

25 Thus, for example, Alaska Communications recommends striking ATA's proposed Section 54.305(g) in its entirety. *See* Letter from Christine O'Connor, ATA, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed April 18, 2016), Attachment at 4.

26 ATA's proposal, *see id.*, under which the support would be transferred with acquired exchanges, is contrary to Commission precedent in the CAF context. *See* 47 C.F.R. §54.305(b) (acquirer of exchanges to receive lower of support calculated based on actual cost or support calculated under that section).

defined deployment and operating criteria must be adopted for the use of such "public investments" to ensure accountability from *all* companies receiving high-cost support – not only from the LECs but from CETCs as well.

The Commission should not delay action on the ATA plan, but should incorporate into any CETC support appropriate, specific and enforceable obligations to ensure that the support is used to expand middle mile to the Alaska Bush, for the greatest benefit of the public.

Please direct any questions concerning this filing to me.

Very truly yours,

/s/
Karen Brinkmann
Counsel to Alaska Communications

Attachment

cc: Ruth Milkman
Stephanie Weiner
Amy Bender
Nick Degani
Rebekah Goodheart
Travis Litman
Matthew DelNero
Carol Mattey
Alex Minard
Suzanne Yelen
Heidi Lankau
Jon Wilkins
Jim Schlichting
Sue McNeil
Chris Helzer
Claire Wack
Peter Trachtenberg
Matt Warner

Alaska Communications Proposed Rules For CETC Support

54.305 Sale or Transfer of Exchanges

(g) Where any recipient of Alaska Mobile Infrastructure Support enters into a binding agreement to acquire another recipient of Alaska Mobile Infrastructure Support, or to acquire supported assets of another recipient of Alaska Mobile Infrastructure Support, the CETC that is the acquiring or remaining entity shall not receive Alaska Mobile Infrastructure Support for the acquired or transferred property.

54.313 Annual Reporting Requirements for High-Cost Recipients

(j) In addition to the information and certifications in paragraph (a) of this section, any recipient of Remote Alaska Mobile Infrastructure Support shall provide:

(i) In its next annual report due July 1, 2017, and every year thereafter for the duration of the support, a certification that at least 70 percent of its remote Alaska infrastructure support was used toward the deployment and operation of fiber-based backhaul or middle mile capacity meeting the performance specifications set forth in section 54.317, identifying the routes served, the amount of capacity available on each route, the number of service providers using that capacity, and the amount of unused capacity available for future use.

(ii) In its next annual report due July 1, 2017, and every year thereafter for the duration of the support, a certification that no single telecommunications service provider or end-user (together with all such entity's affiliates) is using or has the contractual right to use more than fifty percent of the broadband-capable middle mile capacity on any route serving remote Alaska.

(iii) In its next annual report due July 1, 2018, and every year thereafter for the duration of the support, a certification that all broadband-capable middle mile capacity deployed or operated by the recipient of Remote Alaska Mobile Infrastructure Support is being made available on non-discriminatory terms, at rates that are reasonably comparable to the rates for comparable capacity in urban areas.

[Renumber subsections (j) and (k) as subsections (k) and (l).]

54.317 Remote Alaska Mobile Infrastructure Support

(f) Performance Obligations.

(i) Deployment and operation of broadband-capable middle mile capacity. Each CETC recipient of high-cost support for remote Alaska must file with the Chief of the

Wireless Telecommunications Bureau a proposal to target at least 80 percent of its remote Alaska infrastructure support toward the deployment and operation of fiber-based backhaul or middle mile capacity meeting the performance specifications set forth in this section, between every end-user service territory targeted by remote Alaska mobile infrastructure support and served by that CETC and existing broadband-capable infrastructure in one or more urban areas, including proposed annual milestones for middle mile deployment beginning no later than the third year of support. The Chief, Wireless Telecommunications Bureau, within ninety days will approve or reject each such proposal. Where necessary to avoid duplication of facilities or inadequate capacity on specific routes, the Chief, Wireless Telecommunications Bureau, may conduct competitive bidding of the affected portion of the funds [in accordance with the procedures established under Subpart L of this part].

(ii) Definition of broadband-capable middle mile capacity. At a minimum, broadband-capable middle mile capacity shall be sufficient for at least two unaffiliated CETCs providing end-user services in remote Alaska to deliver broadband to their end-users with speeds of at least 10 Mbps downstream and 1 Mbps upstream, increasing to 25 Mbps downstream and 3 Mbps upstream over time, with at least 150 GB of usage per month, and latency limits sufficient to permit advanced broadband applications such as Broadband Internet Access Service ("BIAS") and real-time Voice Over Internet Protocol ("VOIP") Service that are reasonably comparable to those services available in urban areas. In addition, broadband-capable middle mile capacity shall be sufficient for at least two unaffiliated CETCs to provide broadband services to schools, school districts and libraries in remote Alaska with at least 100 Mbps per 1,000 students and staff (users) in the short term and 1 Gbps Internet access per 1,000 users in the longer term.

(iii) Competitive Access Required. Any single telecommunications service provider or end-user (including such entity's affiliates) may have access at any given time to no more than fifty percent of the broadband-capable middle mile capacity on any route serving remote Alaska.

(iv) Dominant carrier regulation. Each CETC recipient of high-cost support for remote Alaska shall be deemed a dominant telecommunications carrier on any route where it constructs and operates middle mile facilities using such support, which shall be classified as a telecommunications service, provided that route is not served by any unaffiliated terrestrial broadband telecommunications carrier that has deployed qualifying broadband-capable middle mile capacity.

(v) Affordability. Broadband-capable middle mile capacity shall be made available on a non-discriminatory basis to affiliated and unaffiliated service providers at rates that are reasonably comparable to the rates for comparable service in urban areas. A rebuttable presumption is established that rates meet the reasonable comparability standard if they do not exceed rates for comparable backhaul in Anchorage. CETCs may rebut this presumption by submitting cost-based evidence to the Chief, Wireless Telecommunications Bureau. Any service provider shall be entitled to bring

complaint under Subpart E of Part 1 of the Commission's rules on the basis that the rates, terms and conditions for middle mile services supported by high-cost support for remote Alaska are inconsistent with the reasonable comparability standard for voice and broadband services to end-users.