

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92

Comments of Alaska Communications

Alaska Communications¹ hereby submits these comments in response to the Commission’s Further Notice of Proposed Rulemaking in the above-captioned dockets.² In these comments, Alaska Communications focuses on the Commission’s questions regarding high-cost universal service support for Tribal lands, and urges the Commission, *first*, to make areas served by Alaska’s price cap carriers eligible for any increase in non-model-based support the Commission decides to offer for broadband deployment in Alaska to customers living on Tribal lands, and *second*, to include rigorous accountability and competitive access safeguards with respect to monopoly facilities constructed with such support, consistent with Alaska Communications’ previous advocacy regarding the use of Connect America Fund (“CAF”) support in the Alaska Bush.

¹ In these comments, “Alaska Communications” signifies the incumbent local exchange carrier (“ILEC”) operating subsidiaries of Alaska Communications Systems Group, Inc., which are ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

² *Connect America Fund*, WC Docket No. 10-90, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (rel. Mar. 30, 2016) (“CAF ROR Order” or “Further Notice”).

Background

In the Further Notice, the Commission seeks comment on, among other things, a proposal from the National Tribal Telecommunications Association (“NTTA”) to provide an additional quantum of support for rate-of-return carriers serving Tribal lands.³ Specifically, the NTTA Letter proposes that the Commission increase non-model based support to rate-of-return carriers serving census blocks that include Tribal lands by a “Tribal Broadband Factor” (“TBF”) of 1.25,⁴ with the increase limited to support associated with census blocks that include Tribal lands within the service area of a rate-of-return carrier.⁵ NTTA also suggests that the TBF be “used in the determination of capital expenditure (“CapEx”) budget for all rate-of-return carriers serving Tribal lands,”⁶ and that there should be “specific build-out obligations that would need to accompany this additional support.”⁷

The Commission’s definition of “Tribal lands” in this proceeding includes, among other areas, “Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act (85 Stat. 688),” and thus the entire state of Alaska.⁸ Nevertheless, NTTA indicates that its proposal “would not cover Alaska providers because they have put forward a separate proposal for the Commission to consider.”⁹

³ See Further Notice at ¶¶ 368 *et seq.*; *Ex parte* Letter of Godfrey Enjady, President NTTA, WC Docket No. 10-90 (filed June 19, 2015) (“NTTA Letter”).

⁴ NTTA Letter at 2-3.

⁵ *Id.* at 4 (illustrative calculation).

⁶ *Id.* at 3.

⁷ *Id.* at 4.

⁸ *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, at ¶ 126, n.197 (2011) (“*USF/ICC Transformation Order*”) (subsequent history omitted).

⁹ *Id.* at 3, n.11.

Discussion

Although the NTTA letter excludes Alaska from its scope, the Further Notice seeks comment broadly on “adopting rules to increase support to rate-of-return carriers for census blocks that include Tribal lands and unserved with broadband meeting the Commission’s current requirements.”¹⁰ Alaska Communications agrees that Tribal lands are sorely in need of increased support, as collectively they are the most poorly served areas of the nation. If the Commission does decide to adopt a mechanism for increasing non-model-based CAF support for unserved census blocks located in Tribal lands, it should include Alaska in that mechanism, and it should include *all* areas eligible for non-model based CAF support within its ambit, specifically including Alaska Communications’ price cap territories.

Except for its 2009 decision to elect price cap regulation,¹¹ Alaska Communications meets all of the requirements for inclusion in the NTTA proposal. Because all of Alaska falls within the Commission’s definition of “Tribal lands” in this proceeding, all census blocks in Alaska, whether within the service areas of Alaska Communications or one of Alaska’s rate-of-return carriers, are considered Tribal lands. And, Alaska Communications is one of only three price cap carriers serving areas outside the 48 contiguous states – and the only one whose service area includes Tribal lands within the Commission’s definition – that elected to seek acceptable terms for *frozen* CAF Phase II support, set at the level of its 2011 high-cost support, rather than accept model-based CAF Phase II support. Moreover, the NTTA letter’s justification for excluding Alaska providers –

¹⁰ Further Notice at ¶ 373.

¹¹ *ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc.*, Petition for Conversion to Price Cap Regulation and Limited Waiver Relief, WC Docket No. 08-220, Order, DA 09-854, 24 FCC Rcd 4664 (Wir. Comp. Bur. 2009).

“because they have put forward a separate proposal”¹² – does not apply to Alaska Communications, because that proposal applies only to Alaska’s rate-of-return carriers and competitive eligible telecommunications carriers (“CETCs”). It therefore excludes any support for wireline broadband service anywhere in the Alaska price cap carriers’ service areas, including 49 primarily native Alaskan “Bush” communities within the service territory of the Alaska Communications ILECs. (Alaska Communications also serves rural communities that are not in the Bush, such as Ninilchik and Nenana.)¹³

Alaska Bush communities are likely to be even more challenging to serve than the most remote Tribal lands in the lower 48 states. These Bush communities – individually compact, but off the road system and separated from most conventional infrastructure by hundreds of miles of wilderness – largely cannot receive broadband meeting the Commission’s CAF speed, latency, affordability, and usage standards. The largest broadband deployment obstacle is a lack of affordable terrestrial middle mile transport, facilities for which are either unavailable or prohibitively expensive.

¹² NTTA Letter at 3, n.11.

¹³ Conceptually, Alaska can be viewed as having three broad regions that each present different challenges to telecommunications service providers: the state’s three population centers, Anchorage, Fairbanks and Juneau; rural areas connected to one or more of those population centers using the state’s road system; and “Bush” communities. “Bush” communities are isolated geographically from infrastructure resources commonly available elsewhere in the state, and the nation as a whole. Most Bush communities cannot be accessed by road, and are not connected to the state’s power grid. To reach these communities, people, as well as goods and services, must arrive by plane, barge, snow machine, all-terrain vehicle, or other off-road transportation means. Communications services in these communities generally rely on satellite, or possibly microwave, transport links to population centers in Anchorage, Fairbanks, or Juneau. More than half of ACS’s wire centers are dedicated to serving some 49 Bush communities that are off the road system and disconnected from statewide electrical power networks.

Although Alaska Communications has been offered CAF Phase II support frozen at its historical 2011 level, that support – approximately \$19.7 million annually – is not sufficient to enable deployment of terrestrial middle mile facilities to the 49 Bush communities served by Alaska Communications.¹⁴ Alaska Communications, however, is continually seeking opportunities to deploy or improve broadband service to these communities. If the Commission were to offer an additional amount of support, Alaska Communications would welcome the opportunity to explore additional options, as enabled by that support, to bring broadband services to unserved census blocks in these most isolated locations.¹⁵ But, Alaska Communications agrees that participation in the Tribal support mechanism should be voluntary.¹⁶ Because the mechanism, support levels, and deployment requirements have yet to be defined, it would be impossible at this point for Alaska Communications – or likely any carrier – to determine whether and to what extent it could participate.

As with all forms of CAF support, Alaska Communications supports clear and rigorous deployment, accountability, reporting, and enforcement requirements in connection with any

¹⁴ See *Connect America Fund*, WC Docket No. 10-90, Reply Comments of Alaska Communications Systems (filed Sept. 8, 2014), at 5; *Ex parte* Letter from Karen Brinkmann, Counsel for Alaska Communications Systems, WC Docket No. 10-90 (filed Feb. 3, 2015), at 2 (proposing broadband deployment to 26,000 locations on the road system) (“*CAF Phase II Deployment Proposal*”).

¹⁵ See Further Notice at ¶ 377 (seeking comment on targeting of support to areas of Tribal lands with low levels of deployment). If the Commission adopts Alaska Communications’ proposal to target broadband deployment to locations on the road system, See *CAF Phase II Deployment Proposal*, the TBF mechanism proposed by NTTA may need to be adapted for use with Alaska Communications, as CAF support will no longer be associated with census blocks served by Alaska Communications in the Bush.

¹⁶ *Id.* at ¶ 380.

increase in CAF support earmarked for expanding broadband availability on Tribal lands.¹⁷ Indeed, the 2011 *USF/ICC Transformation Order* called for “accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results.”¹⁸ And, in the ROR CAF Order, the Commission called this stance “[o]ne of the core tenets” of its CAF reforms.¹⁹ Certainly in Alaska, and likely in other parts of the country, the deployment of broadband to Tribal Lands will require substantial investment in new middle mile transport facilities, and it is essential that accountability, including performance, reporting and enforcement requirements, be tailored to middle mile services, with a focus on the deployment of: (1) adequate high-quality bandwidth; (2) competitive access to ensure that end users can benefit from the lower prices and better service that accompanies retail competition; and (3) affordability standards to ensure the intended beneficiaries are able to utilize the services.

In Alaska, a single CETC receives the majority of all federal universal service support flowing to the state, including consistently about one-third or more of the entire national rural health care support mechanism.²⁰ That CETC has used these funds to create and extend an unregulated network of monopoly transport facilities in underserved areas of Alaska. Alaska Communications has witnessed the public interest harms that have resulted from today’s flawed system, in the form of inflated prices, substandard service, and suppression of competition. Rate-

¹⁷ Further Notice at ¶¶ 379 (seeking comment on deployment obligations), 382 (seeking comments on the applicability of limits on operating expenses and the budget control mechanism).

¹⁸ *USF/ICC Transformation Order* at ¶ 11.

¹⁹ CAF ROR Order at ¶ 6.

²⁰ Figures drawn from Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for Second Quarter 2016 (Rural Health Care Disbursement Exhibits HC09 (Funding Year 2010), HC12 (Funding Year 2011), RH15 (Funding Year 2012), RH18 (Funding Year 2013), RH21 (Funding Year 2014), available at: <http://www.usac.org/about/tools/fcc/filings/2016/q2.aspx>.

of-return regulation – net of the investment of public universal service funds – addresses some of these harms, but the Commission should also keep in place strict rules governing affiliate transactions, to ensure that rate-of-return carriers do not simply evade regulation by selling service through unregulated affiliates.

Conclusion

For the foregoing reasons, Alaska Communications hereby requests, if the Commission adopts a mechanism for providing additional CAF support for Tribal lands, that it include in that mechanism all unserved areas of Tribal lands in Alaska, including those served by Alaska's price cap carriers, and that it adopt deployment and accountability safeguards, as described herein.

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Respectfully submitted,



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