

earth stations have reduced signal quality and speed; and (2) calls are "double hopped"¹⁷ introducing a delay of a half second or more. The combined effect of these two factors makes voice communications difficult and echo prone, and reliable data transmission at reasonable speeds virtually impossible.¹⁸ For example, the RCA has received comments that the best data speed out of St. Paul Island is about 9.6 k baud.¹⁹

Absent development of a new substitute technology to satellite communications or an upgrade in existing infrastructure, many customers in rural Alaska are likely to remain limited in their availability of broadband services. AT&T Alascom contends that the costs to deploy, operate, and maintain greater bandwidth

stated it cannot receive 56k Frame Relay service until AT&T Alascom upgrades its satellite facilities at the locations requiring service.

17 A double-hopped call is one in which the call from one community is up linked to the satellite, down linked to a switching hub, up linked back to the satellite, and down linked to the earth station in another community.

18 "Calls between Alaskan villages are ridden [sic] with hiss and excessive delays from multiple satellite hops. Modem connections between villages disconnect spontaneously and operate as much as 24 times slower than modem connections within Anchorage." (Distance Delivery Consortium, Position Statement Public Telecommunications Infrastructure and Policy in Rural Alaska, January 11, 1995).

19 Comments of Ron Philemonof, Chairman CEO of TDX, the Village Corporation of St. Paul Island, at the Public Meeting.

facilities in rural Alaska would be extremely high.²⁰

Microcom, an Alaskan satellite television dealer with 18 years experience in rural Alaska, stated that "The prospect of Alaska evolving further is limited by lack of access to one of the basic commodities of universal service, bandwidth. In rural Alaska, bandwidth means satellite, and satellite bandwidth is the most expensive there is and in Alaska quality bandwidth is limited."²¹ Microcom asserts that the Ku band satellite deployment that dramatically changed the satellite industry in the 1980's has not hit rural Alaska after almost twenty years, primarily due to limitations on the satellite coverage to Alaska. In this regard, the FCC may be able to assist by requiring that satellites serving the western United States include Alaska as part of their footprint coverage and that Ku band services be further available in Alaska.

20 Comments of AT&T Alascom in response to the Public Meeting at 6.

21 Comments of Microcom in response to the Public Meeting, at 1.

V. Customer penetration rates in Alaska would likely improve if local and toll rates were lower as a result of increased federal funding and if there were increased outreach efforts promoting Lifeline/Linkup services.

The RCA believes that most Alaskans understand the critical need for telecommunications services and would take service if it were offered at an affordable rate. Local exchange infrastructure development does not appear to be the greatest factor determining whether a community has service or high local penetration rates. Rather, regions of high poverty (up to 28% in some areas), coupled with the high costs of local and toll service and the limited local calling area, significantly impact what is affordable in Alaska. The RCA believes additional federal support for toll service for low income customers and for customers with extremely small local calling areas would promote the goal of universal service.²²

The RCA believes that subscribership levels in rural Alaska could also be increased given more outreach concerning the Lifeline/Linkup program and perhaps

²² In Alaska, interexchange carriers are not Eligible Telecommunications Carriers. If the FCC were to provide toll support, then it may need to take action to allow interexchange carriers the ability to receive federal funding.

expansion of these programs. United Utilities, Inc. (UUI) was able to dramatically increase both its penetration statistics and participation in its Lifeline program by increasing its outreach efforts in rural areas:

Service order and hook-up fees were waived and UUI employees identified and contacted each household that did not have service. UUI employees, often spoke in the customers native tongue, Yupik, to inform the customer of the Lifeline program and toll blocking. As a result of these special marketing efforts Lifeline participation increased from 395 to 1,263 participants and household penetration increased from 75.8% to 80.7%, a gain of 4.9%.²³

UUI reported that the most frequent reason why native households did not take service was the high cost of placing state toll calls. In this regard, UUI found that Lifeline customers often took toll blocking.

To improve subscribership levels, UUI proposed the Link-up program be changed to provide up to \$100.00 of recovery of hook-up/connection costs and an additional \$25 per month federal assistance to village Lifeline customers for state toll calling. The RCA supports the UUI proposal to increase the Link-up program. The RCA

²³ Comments of UUI, at ii, in response to the Public Meeting,

would also support UUI's proposal to include \$25 of toll calling if it were possible to implement the program. The RCA notes that toll blocking is desired by many Alaskan Lifeline customers to prevent unaffordable toll bills. It may be difficult to provide both \$25 in toll usage and retain the toll blocking feature for usage above \$25.²⁴ It is also uncertain whether it is possible to limit the \$25 credit/usage to only in-state calls.

Last, the FCC suggests that universal service may be improved with increased federal support for linking up to the network, such as for line extensions. While conceptually this idea may have merit, the RCA cautions the FCC not to implement the program without an idea of the costs involved. Funding line extensions in rural areas can be very expensive and has the potential to increase the fund beyond supportable levels. It may be useful for the FCC to make available a limited amount of funding for a pilot program to evaluate the long term effectiveness and costs of funding line extensions as

November 9, 1999.

²⁴ The RCA notes that local Alaskan carriers are technically unable to implement Lifeline toll limitation service allowing

proposed by the Arizona commission.

VI. The FCC should not assert control over local calling areas in order to promote universal service.

The FCC also sought comment on whether limited local calling areas may make the cost of telecommunications service unaffordable to low-income consumers living in unserved or underserved areas. The FCC suggested it may effectively preempt state jurisdiction over local calling areas in order to promote universal service.

The RCA strongly opposes any action by the FCC to undermine or otherwise preempt²⁵ state authority over rate averaging, designation of local carriers, scope of local calling, and extended area service. The FCC lacks jurisdiction over intrastate rates and local calling areas. Second, even if the FCC had authority, the FCC does not have the historical experience, local presence, and regional knowledge necessary to best regulate intrastate matters and determine whether expansion of the local calling area is in the public interest.

Expanding a local calling area has the potential to

subscribers to limit their toll calling per month to a set level.

²⁵ These comments should not be viewed as agreement that the

impact all customers in the state and should not be allowed without adequate investigation. In order to evaluate whether expanding the local calling area is in the public interest, the RCA would typically review the extent to which the new local calling area: a) required investment in new equipment (and at what cost); b) raised local, access and toll rates; c) affected long distance carrier of last resort responsibilities; and d) was justified given the community of interest. The RCA would also be interested if expanding the local calling area significantly harmed interexchange carrier competition, local competition, or led to stranded investment. The RCA, with its experience and Alaska presence, is in the best position to address these issues.

While the RCA routinely allows increased local calling areas, the RCA believes it imprudent and not in the public interest to create a nationwide policy mandating local calling areas of a set size or characterization. A one size fits all approach could easily lead to unplanned rate increases and decreased

FCC has authority to preempt the state in these areas.

competition in the market. The FCC should therefore not set requirements to expand local calling areas.

VII. The RCA has jurisdiction over telecommunications services to Native villages.

The RCA applauds the FCC's intent to promote telecommunications services to Native populations located in unserved and underserved areas. The RCA looks forward to working cooperatively with the FCC to ensure that Native Alaskans receive improved quality and availability of service. To assist in this area, the RCA has provided background on the Alaska Native Claims Settlement Act (ANCSA).

Natives in Alaska were treated differently from natives in other parts of the country. In 1971, Congress enacted ANCSA, a comprehensive statute designed to settle all Alaska Native land claims. See 85 Stat. 688, as amended, 43 U.S.C. § 1601 *et seq.* "In enacting ANCSA, Congress sought to end the sort of federal supervision over Indian affairs that had previously marked federal Indian policy."²⁶ ANCSA revoked all but one²⁷ of the

²⁶ See 118 S.Ct. 948, 951, *Alaska v. Native Village of Venetie Tribal Government, et al.*, No. 96-1577, Decided February

Alaska reservations set aside for Native use and completely extinguished all aboriginal claims to Alaska land. 43 U.S.C. § 1618(a). In return, Congress transferred \$962.5 million in state and federal funds and 44 million acres of Alaska land to newly created private business corporations whose shareholders were required to be Alaska Natives. The ANCSA corporations received fee simple title to the transferred land without restrictions.

A recent Supreme Court ruling has confirmed that the ANCSA lands are not "Indian Country" within the meaning of 18 U.S.C. § 1151(b). See 188 S.Ct. 948, 949. ANCSA also ended federal superintendence over Native associated lands, with the intent to avoid a lengthy federal wardship or trusteeship.²⁶

As a result, in Alaska the over 220 federally recognized Tribes do not live on designated reservations, and Natives and non-Natives live together in the same villages. Telecommunications services are provided in

25, 1998.

27 The remaining reservation is the Annette Island Reserve of the Metlakatla Indians.

Alaska without regard for whether the area served is primarily Native or non-Native.

The RCA regulates the telecommunications services provided throughout Alaska regardless of the ethnicity of the people served. The RCA has certificated carriers to provide services within designated service areas covering all known communities in need of service. Carrier of last resort responsibilities, service area certification, and eligible carrier status are all governed by the RCA, and there is no need for federal intervention in these areas at this time. Even in Metlakatla, Alaska's only Native reservation, GTE Alaska sought and was granted ETC status from the Alaska state regulatory commission.

In summary, the RCA should remain the primary entity regulating intrastate services. Calls between points in Alaska should remain intrastate in nature as principles of tribal sovereignty do not affect the RCA's jurisdiction.

28 See 118 S.Ct. 948, 950.

VIII. Federal funding promoting universal service to Native communities in CONUS should also be available to Native communities in Alaska.

For purposes of universal service, the RCA believes the FCC should not place great weight on whether "tribal lands" meet a technical or legal standard, such as exists for Indian Country. Rather, the FCC should take into consideration that the people in many rural Native areas of Alaska face the exact same difficulties as Native areas in other states. For example, most Native rural areas of Alaska face high unemployment, are remotely located and isolated much of the year, lack road access, are difficult to serve, and have limited local infrastructure development. Many of these areas have low local penetration rates. As stated by Ron Philemonof, Chairman CEO of TDX, the Village Corporation of St. Paul Island:

[I]f we are to address the intent of this rule making, we must address this [Tribal land] definition to ensure it meets the needs of the native people of Alaska.²⁹

The RCA suggests the FCC meet with the RCA and other interested parties to develop the best policy for

determining which areas of Alaska should be eligible for funding under Native programs. The FCC could then determine which of several options (e.g., allowing the RCA to apply for such funding on a case by case basis; using the Alaska Village Statistical Areas (AVSA) as a surrogate for reservation areas) would best serve the goal of universal service. If the FCC adopts an AVSA approach, the FCC should allow waiver to adjust the AVSA list as these designations appear to have been developed about ten years ago.

Last, whatever funding is available should be applied to the areas served and not restricted to Native use only. In Alaska, Native and non-Native customers live in the same villages, use the same utility infrastructure, and face the same problems obtaining affordable service. It would be administratively difficult for a company to distinguish between Natives and non-Natives and may be inconsistent with state anti-discrimination statutes.

29 Comments of R. Philemonof in response to the Public Meeting.

IX. Changes in study area could lead to local rate increases and lost universal service funding for both Natives and non-Natives living in Alaska. The FCC should not redefine Native areas as new study areas without the mutual agreement of the RCA.

Historically the FCC has not implemented changes in a study area without the state commission cooperation. The RCA believes the FCC should continue this practice and not create a separate study area for Native areas unless such is agreed to (or no objection raised) by the state commission. Changing study areas could lead to rate increases and changes in the amount of universal service support going to specific areas of a state. The states therefore have a strong interest in making sure any changes in study area are in the overall public interest and not disruptive to provision and pricing of services.

In Alaska, all carriers serving Natives village areas currently are designated as "rural" Eligible Telecommunications Carriers and receive some form of federal universal service support for local service.³⁰

³⁰ A large percentage of the State's Native population also live in and around Anchorage, Alaska. Anchorage is the only non-rural area in Alaska. Anchorage currently has relatively low local

As such, changing the study area boundaries will not affect "rural" designations and will not change which currently operating carriers are eligible for federal funding.

Nor is it clear that changing the study areas will increase funding to Native areas in Alaska, absent review of a detailed cost analysis. In Alaska, Natives live throughout the carrier study areas so it may be difficult to determine how best to sub-divide existing study areas. Second, some lower cost Native areas of Alaska might receive less funding as a separate study area than under the status quo. It is the RCA's judgement based on what we know of the proposal and our experience in Alaska, that changing the study area descriptions could in many cases increase administrative costs without necessarily improving rates for universal service.

X. Lifeline service is available to Native Alaskans and FCC intervention in this area is not necessary.

Currently the RCA has authorized all rural local exchange carriers to offer Lifeline and Linkup services

exchange costs compared to the rest of the state and receives no federal high cost support.

at the maximum level of support allowed under the federal universal service fund system. Lifeline is available statewide and there are no tribal issues related to Lifeline service. There is no apparent need for any carrier to seek FCC intercession to increase availability of Lifeline/Linkup services in Alaska.

XI. The FCC should not assert control over Eligible Carrier Status in Alaska.

The FCC is considering what circumstances warrant it to designate eligible carrier status, a responsibility normally reserved to the states. There is no reason for the FCC to determine ETC status for Alaskan carriers. The RCA has evaluated and granted ETC status to all rural local exchange carriers operating in Alaska. Carriers granted ETC status are required to serve throughout the service area and therefore there is no need for the FCC to assert jurisdiction in Alaska in order to promote service to unserved areas.

An FCC decision to assert authority over ETC status should not solely be based on whether a carrier or its services are subject to the jurisdiction of a state commission. Some Alaskan carriers, even though they are

not economically regulated by the RCA, have requested and received ETC status from the RCA. If the FCC asserts jurisdiction over the uneconomically regulated ETC, it could lead to confusion and complications over jurisdictional authority given the state has already asserted and enforced jurisdiction in this area. Furthermore the Universal Service Administrative Company (USAC) has already accepted the RCA ETC designations and is providing federal support to the economically deregulated carriers. Nor does lack of state economic authority over a carrier compromise the ETC process as the RCA can place any necessary conditions on the carrier (e.g., need for advertising, service throughout the area) as a prerequisite for continued eligibility for federal funding.

The RCA suggests the FCC assert jurisdiction over ETC status only when the state commission fails to claim jurisdiction in response to a carrier request for ETC status.

XII. The FCC's definition of Unserved Area is overly broad and if adopted, should only be deemed a guideline and not a state requirement.

The FCC proposes to define an unserved area as "any area in which facilities would need to be deployed in order for its residents to receive each of the services designated for support by the universal service support mechanism."³¹ The RCA believes this definition is inappropriate for several reasons. First, the definition does not properly recognize that the Act at 47 U.S.C. 214(e) (3) limited the obligation to designate a carrier to those unserved areas belonging to a "community" or "portion thereof". There is no requirement that the FCC or the state commissions order a carrier to provide expensive service to isolated pockets of people living away from a community. Second, newly constructed subdivisions and uninhabited/sparsely inhabited wilderness areas within an existing carrier's designated service area would be deemed "unserved" and subject to section 214(e) (3) under the FCC's proposed definition. This does not appear to be what Congress intended.

31 FNPR at P. 86.

Third, some locations in Alaska are "company towns" that are not permanent communities so much as business enterprises. There may also be "seasonal" communities where there may be over 25 people in the summer and only one to five residents in the winter. The FCC should consider whether adopting a broad definition of "unserved area" would ultimately place it in the position of providing universal service support to individual business enterprises. In summary, the RCA believes the FCC's definition is too broad and in any event, should not be applied to the state jurisdiction where an alternative definition may be needed.

The FCC also tentatively concludes that section 214(e)(3) suggests there is no need to impose a minimum size requirements on the number of potential subscribers needed to invoke the authority of section 214(e)(3). Again, the RCA disagrees. Totally ignoring the number of potential subscribers in an area is inconsistent with the stated intent of section 214(e)(3) that it apply to a "community or portion thereof".

The RCA believes that the universal services to

which section 214(e)(3) apply are primarily intrastate in nature (e.g., local service, DTMF signaling, access to emergency services). Only a limited portion of the services identified as "universally needed" services are interstate in nature. As such, it is more appropriate for the states which have jurisdiction over intrastate services, to determine whether an area is a "community or any portion thereof" and whether the area is "unserved" for purposes of ordering a carrier to construct facilities. Furthermore, the states have historically been the ones to determine how best to serve "unserved" areas. There is no need to undermine or effectively preempt the state's jurisdiction in these areas.

The FCC also seeks comment on whether a carrier's reason for not serving an area is relevant to determination of compliance with 214(e)(3). Clearly, it is necessary to know why service is not being provided before mandating a requirement to serve.

XIII. The FCC should not require states to employ a competitive bidding process for determining which carrier should serve an unserved area.

Rather than "fact finding" to determine which carrier is best able to serve an unserved area, the FCC proposes to use a competitive bidding process for service to Tribal and possibly other areas. The RCA believes that mandating states to use a competitive bidding process unlawfully preempts a state's authority to regulate intrastate services and service areas.

In any event, the RCA believes it inappropriate to require a national competitive bidding mechanism to determine which carrier or carriers will provide intrastate service to an unserved area. Competitive bidding has been an idea considered and not recommended by the Joint Board as the primary means for determining federal universal service support in the short term. Conditions have not sufficiently changed to make a mandatory national competitive bidding mechanism more appealing. Furthermore, no party has successfully been able to demonstrate how competitive bidding economically and efficiently works if no carriers or only one carrier

is willing to serve the area. For example, the Aleutian/Pribilof Islands Association stated that it was not approached by any telephone company in response to its request for service even though the requested services would have been subsidized through the federal rural health care program. Competitive bidding was not an option in their case. In Alaska, there are few, if any, local exchange competitors in areas where there are unserved areas. The RCA therefore does not support the FCC's tentative conclusion to "adopt a competitive bidding mechanism to identify the carrier or carriers best able to provide the supported services in unserved tribal lands and to set the level of support provided for serving the area."³²

Nor should the FCC set limits to the number of carriers a state may designate to serve an area. Clearly, it is within the state's authority to consider matters of intrastate carrier certification and issues of rural exemption.

32 FNPRM at P. 102.

XIV. Underserved areas.

The RCA agrees that low-income customers in rural areas may benefit by expanded federal universal service support. For example, conceptually, it may be beneficial to provide support for low-income customer calls outside the local calling area that fall within specified federal-designated support areas. It is not clear however how such a mechanism would be implemented given that, at least in Alaska, low-income customers see toll blocking as an important need and local carriers to date have been technologically unable to block a customer's toll calling after an upper limit has been reached.

XV. Rural Health Care Infrastructure

Alaska will greatly benefit from the FCC's rural health care program. Even with this program however, rural health care providers (RHCPs) report that services are not always available from their interexchange carrier due to limitations on bandwidth at certain sites. There is an obvious need in some areas of the state to improve infrastructure to allow RHCPs the Frame Relay and high-speed data services they require at affordable rates.

The record to date before the RCA suggests that the most urgent rural health care need is to provide the equipment and telecommunications services necessary to allow on-site treatment of patients where there is no doctor or direct access to a hospital. For example, the Aleutian/Pribilof Island Association stated that if someone needs more than emergency first aid or chronic follow up, the person has to get on a small plane and fly about six hours to Anchorage for care. This experience is typical of many rural areas of the state. In the Aleutian/Pribilof Island area, only one clinic has an x-ray machine. As another example, St. Paul Island is 800 miles from the nearest hospital and has no functioning x-ray machine.

Some of the things the FCC could do to improve rural health care service are:

- a) Allow universal service funding to provide for infrastructure development to improve availability of useful, affordable, higher, bandwidth in rural areas.
- b) Facilitate whenever possible the ability of rural

health care providers to join with other entities when seeking federally supported services. and
c) Require satellite providers to include Alaska within their satellite footprint.

Secondly, there are some locations along roadways in Alaska that are "dead zones" where communications are not available. Along some rural highways in Alaska, a motorist must travel as much as fifty miles or more to find a telephone to report an emergency.³³ The state is working on this issue, but faces limitations on funding and high costs which impact resolution of the matter.

Search and rescue teams in remote, rural areas also continue to experience communications problems in many areas. The State has employed Iridium phones to assist in emergency situations, with a per phone cost of \$800. Given the cost of service, it is unclear if this project will be successful.

³³ State of Alaska Dept. of Health and Social Services, letter from Mark S. Johnson, MPA Chief, Section of Community Health and EMS to Lori Kenyon, at 2, November 8, 1999.

Conclusion

The RCA supports broadly based universal service programs to assist rural areas of Alaska to improve penetration rates and to obtain access to critical services. The FCC should adopt mechanisms to promote local availability of Internet connections in areas where such connections are not likely to occur absent federal support. Extending federal funding to include coverage for limited toll calling in areas with extremely small local calling areas and for Lifeline customers would also help reduce the disparity between rural and urban local services and would promote universal service. The RCA supports the proposal by United Utilities, Inc. to expand the federal Lifeline/Linkup program. The FCC should also consider a pilot program to evaluate the Arizona proposal to fund line extensions.

The RCA requests that whatever federal programs are available to Native Americans in the Contiguous United States also be available in Native areas in Alaska. Many Alaska Native areas experience the same problems as Natives elsewhere in the country and are equally in need of support. The RCA suggests the FCC meet with the RCA and other interested