

DOCKET FILE COPY ORIGINAL ORIGINAL

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

RECEIVED

MAR - 5 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Request for Review by)
Unicom, Inc. of Decision of)
Universal Service Administrator)

Docket Nos. 96-45 and 97-21

To: The Commission

REPLY TO RESPONSE OF GENERAL COMMUNICATION, INC.

Unicom Inc., ("Unicom"), by its counsel, hereby submits this Reply to the Response of General Communication, Inc. ("GCI"). The GCI pleading was in response to Unicom's Supplement to Petition for Review in the above-captioned matter. In particular, Unicom briefly responds to GCI's argument that the Commission is the only federal agency with authority over issues arising from Yukon-Kuskokwim Health Corporation's ("YKHC's") telecom procurement process and subsequent contract award to GCI, and that the Commission should issue a ruling denying the preference request in order to "forestall" action by other agencies. *Id.* at 3.

The Commission is not, in fact, the only agency with responsibilities in this matter. The Alaska Tribal Health Compact ("Compact"), to which the Native Village of Hooper Bay and YKHC are signatories, requires compliance with certain provisions of the Indian Self-Determination and Education Assistance Act ("ISDEAA"), 25 U.S.C. Section 450 *et seq.* The Alaska Area Native Health Service, as part of the Indian Health Service ("IHS"), has responsibility to assure YKHC's compliance with the Compact and the ISDEAA.

By contrast, the Commission's public interest responsibilities derive from Section 254 of the Communications Act and its Rules for the Rural Health Care Program. The Commission has

Number of Copies rec'd
A B C D E

0+4

responsibility to determine whether YKHC's failure to consider Unicom's Native-owned status contravened those Rules, *e.g.*, Section 54.603.

In other words, the two agencies have separate, but overlapping, legal responsibilities based on the same set of facts. There is nothing untoward or unusual in this -- any more than there is anything untoward or unusual in the fact that the Department of Justice reviews a proposed telecom merger from the antitrust perspective, while the Commission reviews the same merger from the standpoint of the "public interest" under the Communications Act. The agencies have concurrent jurisdiction, just as do the FCC and IHS here.

Moreover, as a signatory to the Compact, the Native Village of Hooper Bay has interests separate and distinct from those of Unicom. These interests raise issues well beyond the scope of Unicom's Petition for Review.

Thus, the Commission need not rush to "forestall" action by the IHS as GCI would have it do -- something the Commission has no authority to do in any event.

Respectfully submitted,

UNICOM, INC.

By: 

William K. Keane

Mark Van Bergh

ARTER & HADDEN LLP
1801 K Street, NW
Third Floor, L Street
Washington, D.C. 20554
(202) 775-7100

Its Counsel

March 5, 2002

308480_1.DOC

CERTIFICATE OF SERVICE

I, Yvette Morgan, hereby certify that the foregoing "Supplement to Petition for Review" was served this 5th day of March, 2002, by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, addressed to:

Dorothy Atwood
Chief, Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Katherine Schroder
Chief, Accounting Policy Division
Federal Communications Commission
445 12th Street, S.W.
Room 5-A426
Washington, D.C. 20554

Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Jane Mago, Esq.
General Counsel
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Kyle D. Dixon
Legal Advisor
Office of the Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Matthew Brill
Common Carrier Legal Advisor
Office of Commissioner Abernathy
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Jordan Goldstein
Senior Legal Advisor
Office of Commissioner Copps
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Sam Feder
Senior Legal Advisor
Office of Commissioner Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

D. Scott Barash, Esq.
Vice President & General Counsel
Universal Service Administrative Company
Suite 600
2120 L Street, NW
Washington, D.C. 20037

Valerie Davidson, Esq.
General Counsel
Yukon-Kuskokwim Health Corporation
829 Chief Eddie Hoffman Highway
Bethel, Alaska, 99559

Lloyd Benton Miller, Esq.
Sonosky, Chambers, Sachse,
Miller & Munson
900 West Fifth Avenue, Suite 700
Anchorage, AK 99501

John T. Nakahata
Harris, Wiltshire & Grannis, LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

Gerard J. Waldron, Esq.
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004

Martin M. Weinstein, Esq.
GCI Communications Corporation
2550 Denali Street
Anchorage, AK 99503-2571

Tina M. Pidgeon, Esq.
Drinker Biddle & Reath LLP
1500 K Street, NW
Washington, DC 20005



Yvette Morgan