

period of approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent.<sup>204</sup>

Even GCI's senior management stated, over two years ago, that ACS was "arguably no longer dominant."<sup>205</sup>

Furthermore, when ACS implemented a 24 percent retail rate increase in November 2001, GCI did not raise retail prices in response, but rather kept its rates in check, unfettered by costly dominant carrier regulation. According to GCI, "following the rate increase we had a significant number of customers that wanted to switch their service to GCI."<sup>206</sup> GCI has testified to the price sensitivity of Anchorage customers, attributing ACS's market share loss to its price increases in a competitive market.<sup>207</sup>

GCI also has testified about its innovative service offerings,<sup>208</sup> and has the option of serving customers through such technologies as WLL and high capacity point-to-point microwave. Clearwire, Dobson, and TelAlaska have begun winning customers in the market. Anchorage consumers have demonstrated their willingness and ability to change local exchange

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<sup>204</sup> Meade UNE Statement at ¶ 8; Doucette Forbearance Statement at ¶ 4.

<sup>205</sup> *Tindall Prefiled Rebuttal Testimony* at 9.

<sup>206</sup> *Investigation Into Disparities in Service Provided to Customers of a Competitive Local Exchange Carrier and an Incumbent Local Exchange Carrier*, RCA Public Hearing, Vol. II, Docket U-02-97, at 288 (Oct. 22, 2002) (testimony of Gina Borland, Vice President and General Manager of Local Phone Service of GCI), attached as Exhibit L to ACS UNE Petition.

<sup>207</sup> *See Commission Review of the Rules and Regulations Governing Telecommunications Rates, Charges Between Competing Telecommunications Companies, and Competition in Telecommunications*, GCI's Reply Comments, RCA Docket No. R-03-03 at 6 (May 19, 2005) ("GCI Reply in RCA Detariffing Proceeding"), attached as Exhibit H to ACS UNE Petition.

<sup>208</sup> *See* GCI Opposition to ACS UNE Petition at 6-7.

carriers in direct response to price and service changes,<sup>209</sup> a direct result of the high level of competition in the market.

Vibrant competition in the market for broadband services protects consumers in that market as well. The Commission repeatedly has found a high degree of competition in the market for broadband services.<sup>210</sup> Likewise, former Chairman Powell and Commissioner Abernathy have recognized the “viable competition from multiple platforms including cable modem services, satellite, Wi-Fi, Wi-Max, and DSL” as well as new potential competition from broadband over power line (“BPL”), supporting their conclusion that the “broadband market has no dominant incumbent service provider.”<sup>211</sup> Similarly, the Government Accountability Office recently found that new technologies have the “potential to be important means of broadband service in the coming years,” including deep fiber deployment (e.g., fiber to the home), WiMAX, BPL, and third-generation (“3G”) cellular.<sup>212</sup> The Commission has observed that the “basic

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<sup>209</sup> See supra n.206, n.207. See also Blessing UNE Statement at 7-8. In granting another carrier’s forbearance petition from dominant carrier rate regulation in competitive markets, the Commission stated, “In competitive markets, other service providers possess sufficient unutilized capacity enabling [the carrier’s] customers to switch if [that carrier] were to charge non-competitive rates.” *Comsat Order* at ¶ 144. Other service providers in Anchorage have clearly demonstrated such unutilized capacity.

<sup>210</sup> See, e.g., *Availability of Advanced Telecommunications Capability in the United States*, Fourth Report to Congress, 19 FCC Rcd 20540, at 12 (2004) (“the competitive nature of the broadband market, including new entrants using new technologies, is driving broadband providers to offer increasingly faster service at the same or even lower retail prices”); *Triennial Review Order* at ¶ 292 (“broadband services . . . are currently provided in a competitive environment”).

<sup>211</sup> *Amendment of Part 15 Regarding New Requirements and Measurement Guidelines for Access Broadband over Power Line Systems; Carrier Current Systems, Including Broadband over Power Line Systems*, Joint Statement of Chairman Michael K. Powell and Commissioner Kathleen Q. Abernathy, 19 FCC Rcd 21265 (2004).

<sup>212</sup> U.S. Government Accountability Office, Report to Congressional Committees, *Broadband Deployment Is Extensive Throughout the United States, But It Is Difficult to Assess the Extent of Deployment Gaps in Rural Areas*, at 23 (May 2006).

elements of the existing regulatory requirements for the provision of broadband services by incumbent LECs were initially developed in a prior era of circuit-switched, analog voice services characterized by a one-wire world for access to communications” and existed “well before the development of competition between providers of broadband services.”<sup>213</sup> Given the current state of competition, the regulation from which ACS seeks forbearance is no longer necessary to protect consumers.

In addition to the consumer protection afforded by facilities-based intramodal and intermodal competition, the FCC will continue to have jurisdiction over ACS’s interstate exchange access services through a wide array of provisions of the Act that protect consumers.<sup>214</sup> Section 201 of the Act requires that carriers providing interstate or foreign communication service provide service upon reasonable request.<sup>215</sup> Section 201 also mandates that all charges, practices, classifications, and regulations for such service be just and reasonable.<sup>216</sup> Likewise, under Section 202 it is unlawful for any common carrier to discriminate unjustly or unreasonably in its charges, practices, classifications, regulations, facilities, or services or to make or give any undue or unreasonable preference or advantage to any person or class of persons.<sup>217</sup> The Commission also has the authority to prescribe just and reasonable rates for access services

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<sup>213</sup> *Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, Notice of Proposed Rulemaking, 16 FCC Rcd 22745, at ¶¶ 4, 38 (2001).

<sup>214</sup> *See supra*, Section II. As discussed above, this petition seeks forbearance, with respect to ACS’s broadband services, from application of the whole of Title II of the Communications Act.

<sup>215</sup> 47 U.S.C. § 201.

<sup>216</sup> *Id.*

<sup>217</sup> 47 U.S.C. § 202.

under Section 205 and to adjudicate any allegations of unreasonable rates and practices under Section 208.<sup>218</sup>

Moreover, the continued operation of Section 251(c)(4) will help ensure that resellers in Anchorage have the ability to provide customers a choice of local exchange and exchange access services.<sup>219</sup> Currently, GCI, AT&T, and TelAlaska each serve customers through resale. By ACS's estimate, approximately 11,000 lines in Anchorage currently are served using resale.<sup>220</sup> This entry strategy will remain available to any new entrants that decide to offer services in the future. Likewise, Section 251(c)(2) will continue to govern ACS's provision of interstate exchange access services, requiring it to interconnect with the facilities and equipment of other telecommunications carriers at rates and other terms that are just, reasonable, and nondiscriminatory.<sup>221</sup> The grant of limited forbearance sought by this petition will in no way prevent the FCC from protecting consumers.

A further federal regulatory safeguard will work to ensure that ACS's charges and practices are just and reasonable and that consumers are protected. ACS will accept the same ceiling on terminating interstate switched access rates that the Commission imposed on Qwest pursuant to Section 61.26 of the rules.<sup>222</sup> As such, ACS will operate under the same benchmark that applies to its competitors: ACS's tariffed rate as of July 1, 2005. Under this regime, if ACS charges switched access rates to its carrier customers at or below this benchmark, ACS will not be required to file a tariff, or may file a tariff with one day's notice without cost support.

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<sup>218</sup> 47 U.S.C. §§ 205, 208.

<sup>219</sup> 47 U.S.C. § 251(c)(4).

<sup>220</sup> Meade UNE Statement at ¶ 9.

<sup>221</sup> 47 U.S.C. § 251(c)(2).

<sup>222</sup> *Qwest Order* at ¶¶ 40-41.

However, if ACS charges its carrier customers more than this benchmark, ACS may not file a tariff and its rates will not enjoy a presumption of reasonableness.<sup>223</sup>

In addition to continued federal regulatory authority, there is significant state regulatory authority over local exchange and intrastate exchange access services that will remain unchanged by this limited grant of forbearance. The RCA regulates ACS on a variety of fronts, including intrastate retail rates.<sup>224</sup> State law requires “just and reasonable” rates and prohibits “unreasonable preference[s].”<sup>225</sup> Should a provider unfairly increase prices or decrease quality of service to consumers, the RCA has sufficient authority to act for the purpose of rectifying the situation, including the authority to suspend ACS’s rates, conduct investigations, and order refunds.<sup>226</sup> Moreover, upon concluding a formal docket, the RCA can order modification of ACS’s rates and other terms.<sup>227</sup> Therefore, a combination of competitive market forces and continued federal and state regulation will be more than sufficient to ensure that consumers are protected.

**2. Sections 10(a)(3) and 10(b) – Forbearance Will Promote The Public Interest and Promote Competition**

Under the third prong of Section 10(a) of the Act, the Commission must determine whether forbearance from the specified dominant carrier regulation is consistent with the public interest.<sup>228</sup> The Commission also must consider, pursuant to Section 10(b), whether

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<sup>223</sup> However, as is the case with CLECs, no such restriction will be imposed on ACS with respect to its own end user customers. The Commission has stated its belief that competition will serve to keep such rates just and reasonable. *Qwest Order* at ¶ 41.

<sup>224</sup> See, e.g., ALASKA STAT. § 42.05.141 (2006).

<sup>225</sup> ALASKA STAT. § 42.05.301 (2006); ALASKA STAT. § 42.05.381 (2006).

<sup>226</sup> ALASKA STAT. § 42.05.421 (2006).

<sup>227</sup> ALASKA STAT. § 42.05.431 (2006).

<sup>228</sup> 47 U.S.C. § 160(a)(3).

forbearance will “promote competitive market conditions, including the extent such forbearance will enhance competition among providers of telecommunications services.”<sup>229</sup> A finding that forbearance will promote competition is sufficient to satisfy the public interest prong.<sup>230</sup> This requirement is satisfied here. There is no competitive benefit to continued regulation of ACS under the regulations specified in this petition; rather, forbearance actually will enhance competition.

As it stands now, asymmetric regulation is hobbling the ability of ACS to compete with its more than evenly matched competitor in GCI. For example, and as noted by the Commission in the *Qwest Order*, the 15-day tariff notice requirements currently imposed on ACS give GCI the ability to move to the market first by reducing its own prices or enhancing its service offering—beating ACS to market every time.<sup>231</sup> Every competitive offering by ACS can be matched—or bested—by GCI before ACS can even make the offer to a single customer. This permanent loss of the “first mover advantage” has a perverse affect on the market: such regulation deprives ACS of any incentive to file for reduced prices because GCI always can beat it to the market. Consumers are deprived of the beneficial effects that more adaptive competition delivers.<sup>232</sup>

GCI’s own statements provide evidence that consumers in the Anchorage market would benefit from greater competition: a GCI executive recently described GCI’s market share

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<sup>229</sup> 47 U.S.C. § 160(b).

<sup>230</sup> *Id.*

<sup>231</sup> *See Qwest Order* at ¶ 46, n.116-17.

<sup>232</sup> *See infra* n.243. *See also* Shelanski Forbearance Statement at ¶¶ 3, 23 for a discussion of how continued regulation in this case harms consumers.

in Anchorage as “kind of stable.”<sup>233</sup> This “stability” demonstrates not only that GCI is fully entrenched, but also that consumers would benefit from the increased competition that would result from the removal of regulatory constraints on ACS.

As demonstrated above, the Anchorage study area is by all measures a highly competitive environment. As the Commission noted in the *Qwest Order*, “[i]n these environments that are competitive for end users, applying these dominant carrier regulations to Qwest limits its ability to respond to competitive forces and, therefore, its ability quickly to offer consumers new pricing plans or service packages.”<sup>234</sup> Similarly, forbearance will help ACS compete more vigorously and offer consumers more choices and prices that respond to market forces. In fact, as GCI continues to deploy its own facilities, it has noted that fewer GCI customers have been won back by ACS as compared to customers GCI served over UNE loops<sup>235</sup>—demonstrating both the strength of facilities-based competition in Anchorage as well as the need for forbearance.

Importantly, the Commission previously ruled that the level of facilities-based competition in the Anchorage market precludes ACS from engaging in predatory practices to drive out competitors,<sup>236</sup> and in doing so the Commission made a highly relevant finding with respect to ACS and the public interest. In examining the exchange access services market in 2000, the Commission granted ACS’s predecessor, ATU Telecommunications, certain pricing and tariffing relief in the Anchorage market, finding that, “given the level of competition that

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<sup>233</sup> See *supra* n.4.

<sup>234</sup> *Qwest Order* at ¶ 47.

<sup>235</sup> GCI Q4 2005 Earnings Call Transcript at 7 (statement of Ron Duncan); GCI Q1 2006 Earnings Call Transcript at 6.

<sup>236</sup> *ATU Order* at ¶ 21.

exists in the Anchorage market, the public interest could be better served by the conditional grant of the requested waiver, rather than strict adherence to the existing rules.”<sup>237</sup> The Commission stated, “as competition develops in the access market, pricing flexibility would be necessary to avoid the potential adverse consequences of applying rules designed for monopolistic conditions to competitive markets.”<sup>238</sup>

Since the Commission made that finding some five years ago, competition in the Anchorage market has intensified, particularly through the use of alternative facilities, making Anchorage among the most competitive local exchange markets in the country.<sup>239</sup> Similarly, the RCA has found the retail local exchange market in Anchorage to be competitive and has adopted regulations under which ACS will be considered non-dominant, although again ACS is not seeking non-dominant status in this petition but only limited forbearance.<sup>240</sup> The Chair of the RCA has identified Anchorage as a “mature competitive market[.]”<sup>241</sup> GCI itself has stated its

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<sup>237</sup> *Id.* ¶ 2.

<sup>238</sup> *Id.* ¶ 17.

<sup>239</sup> The Commission has deregulated pricing in markets with far less competition than the Anchorage market via its “phase II” pricing flexibility test. A “price cap” LEC may offer dedicated transport and special access services free from the Commission’s rate structure and price cap rules by showing that unaffiliated competitors have collocated in at least 50 percent of its wire centers within an MSA or have collocated in wire centers accounting for at least 65 percent of the LECs revenues from the relevant services in the MSA. *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Interexchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers; Petition of US West Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona MSA*, Fifth Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 14221, at ¶ 25 (1999).

<sup>240</sup> *Commission Review of Rules and Regulations Governing Telecommunications Rates, Charges Between Competing Telecommunications Companies and Competition in Telecommunications*, Order Adopting Regulations, RCA Docket No. R-03-03 (June 22, 2005).

<sup>241</sup> Transcript of RCA Public Meeting, Volume I, Presentation of Chairman Kate Giard, R-03-03 (March 30, 2005).

belief that no markets in Alaska will return to monopoly status.<sup>242</sup> Vigorous competition has not only made the specified dominant carrier regulation of ACS unnecessary, such regulation has only harmed consumers by denying them the benefit of ACS price reductions and service innovations.

Allowing ACS to price according to market forces will stimulate even more vigorous retail competition, increasing incentives for both ACS and GCI to provide innovative services and pricing.<sup>243</sup> For example, ACS will be able to respond to pricing changes and service bundles offered by its competitors, and customize its offerings for business customers. The vigorous competitive marketplace in Anchorage provides more than sufficient discipline on ACS to ensure that it will offer competitive prices and service packages. The increase in regulatory parity sought by this petition will allow ACS to compete more effectively on price and service.

**V. CONCLUSION**

Based on the foregoing, ACS requests that the Commission forbear from application of the dominant carrier regulation specified in Appendix A with regard to exchange access services as applied to ACS in the Anchorage study area. ACS also requests forbearance from Title II regulation on the same types of services from which forbearance was sought and granted in the *Verizon Broadband Petition*. The statutory requirements for forbearance have

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<sup>242</sup> *GCI Reply in RCA Detariffing Proceeding* at 8.

<sup>243</sup> *See Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Sixth Memorandum and Report, 14 FCC Rcd 10840, at ¶ 12 (1999) (“When the Commission first adopted the Part 69 rules, incumbent LECs did not face competition. In the current environment, however, the delay caused by the Part 69 rules may place incumbent LECs at a competitive disadvantage. CLECs that have notice of an incumbent LEC’s Part 69 waiver petition may be able to begin offering the service before the incumbent LEC has been granted permission to establish new rate elements for the new service, thus diminishing the incumbent’s incentives to develop and offer new services. With the removal of this competitive disadvantage, incumbent mid-sized LECs will be better able to respond to competition from CLECs.”)

been met, and therefore, pursuant to Section 10(a), the Commission should forbear. ACS does not have market power in any relevant product market in the study area, and robust facilities-based competition will ensure that ACS's charges and practices are just and reasonable. These competitive forces also will ensure that consumers are protected. Moreover, a number of important federal and state regulatory provisions will continue to protect consumers and promote the public interest. ACS would be subject to no less regulation than any competitive local exchange carrier providing interstate access services. Furthermore, forbearance actually will promote the public interest by removing the regulatory asymmetry under which ACS currently must operate, allowing it to compete more effectively for the more than 50 percent of the switched access market it has lost. Forbearance is the next logical step, as envisioned by the 1996 Act.

ACS further requests that the Commission compel ACS's competitors to produce information regarding their networks and customers to the extent the Commission determines that such information would be relevant to its determination of the level of competition in the Anchorage market.

Respectfully submitted,

ACS OF ANCHORAGE, INC.



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May 22, 2006

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\* Application Pending in New York; Not Yet Admitted in the District of Columbia

APPENDIX A

**PETITION OF ACS OF ANCHORAGE, INC.  
 FOR FORBEARANCE FROM CERTAIN DOMINANT CARRIER REGULATION  
 OF ITS INTERSTATE ACCESS SERVICES, AND FOR FORBEARANCE FROM  
 TITLE II REGULATION OF ITS BROADBAND SERVICES, IN THE ANCHORAGE,  
 ALASKA, INCUMBENT LOCAL EXCHANGE CARRIER STUDY AREA**

**I. Dominant Carrier Regulation From Which ACS Seeks Forbearance Regarding  
 Interstate Access Services**

ACS of Anchorage, Inc. (“ACS”) seeks forbearance from application of the following dominant carrier regulation, and treatment as a non-dominant carrier under each of the specified rules, with respect to interstate access services. The general description of each regulation provided below is intended to serve as a summary of the regulation and is not intended to be a complete and exhaustive specification of all the requirements of the regulation.

A. Petitions for suspension or rejection of new tariff filings (47 C.F.R. § 1.773).

Interstate tariff filings submitted by dominant carriers are presumed lawful and will not be suspended unless cost and demand showings are not adequate, or a petition requesting suspension shows: (i) there is a high probability the tariff would be found unlawful after investigation, (ii) that any unreasonable rate would not be corrected in a subsequent filing, (iii) irreparable injury would result if the tariff filing is not suspended, and (iv) the suspension would not otherwise be contrary to the public interest. Tariff filings submitted by non-dominant carriers are presumed lawful and will not be suspended by the Commission unless a petition requesting suspension shows: (i) there is a high probability the tariff would be found unlawful after investigation, (ii) the potential harm to competition from allowing the tariff to remain in effect would be more substantial than the injury to the public if the service established pursuant to the rates and conditions proposed in the tariff filing was unavailable, (iii) irreparable injury

would result if the tariff filing is not suspended, and (iv) the suspension would not otherwise be contrary to the public interest.

B. Tariff filing cost support requirements (47 C.F.R. § 61.38).

Dominant local exchange carriers are required to file interstate access tariffs with the FCC. In addition, under § 61.38, certain large dominant carriers must submit supporting information along with letters of transmittal for all tariff filings. A dominant carrier seeking a tariff change must submit (i) a cost of service study for all elements for the most recent 12 month period, (ii) a study containing a projection of costs for a representative 12 month period, and (iii) various estimates of the effect of the changed rate or other term on traffic and revenues. A dominant carrier offering a new service must submit only the second and third items above required for a tariff change. A dominant carrier also must submit complete explanations of the bases for the estimates, as well as working papers containing the information underlying the data supplied in the studies and an explanation of how those papers relate to the information. With certain rate increases, a dominant carrier also must submit additional cost, marketing, and other data underlying the working papers.

C. Private line rate structure guidelines (47 C.F.R. § 61.40).

§ 61.40 requires dominant local exchange carriers to provide private line rates in a prescribed format in order to qualify for a reduction in the burden of cost justification with respect to the Commission's determination as to whether the carrier's private line tariffs are just, reasonable, and nondiscriminatory.

D. Composition of tariffs (47 C.F.R. § 61.54).

§ 61.54 imposes stringent tariff composition requirements on dominant carriers.

ACS requests the application of § 61.22 instead, which simplifies the tariff composition and cancellation processes.

E. Tariff filing notice requirements (47 C.F.R. § 61.58).

Every proposed tariff must include an effective date and must meet certain notice requirements. Notice is achieved by filing the proposed tariff changes with the Commission in advance of their effective date. Pursuant to § 61.58, dominant local exchange carriers filing tariffs pursuant to the streamlined procedures of Section 204(a)(3) of the Communications Act may file tariffs on 15 days' notice or, if the tariff proposes only a rate decrease, on 7 days' notice; otherwise, dominant local exchange carriers must file tariffs on at least 16 days' notice and may be required to provide up to 120 days' notice. If a dominant carrier's tariff publication would increase any rate or charge or effectuate an authorized discontinuance, reduction, or other impairment of service to any customer, that carrier must inform the affected customers of its content. ACS requests forbearance from § 61.58 only to the extent that it requires interstate access tariff filings, such that ACS may still elect to file interstate access tariffs on a permissive basis.

F. Effective period required before changes (47 C.F.R. § 61.59).

For dominant local exchange carriers, new rates or regulations generally must be effective for at least 30 days before the carrier may make any change. Similarly, changes to rates and regulations of dominant carriers that have not become effective may not occur unless the effective date of the proposed change is at least 30 days after the scheduled effective date of the pending revisions.

G. Dominant carrier rules for processing of applications for consent to transfer of control (47 C.F.R. § 63.03(b)(2)(i)).

Carriers must file applications for Commission consent to transfer control of lines or assign their authorizations to provide interstate services to another party. Certain streamlined procedures are available. Dominant carriers are eligible for streamlined procedures for fewer types of transfers than non-dominant carriers.

H. Procedures for discontinuance, reduction or impairment of service by dominant carriers (47 C.F.R. § 63.71).

In order to cease provision of service, a carrier must file an application pursuant to section 214 of the Communications Act. Under § 63.71 of the FCC's rules, a domestic dominant carrier's application is granted on the 60th day after the Commission puts it on public notice unless the Commission notifies the carrier otherwise before the 60th day. For a domestic non-dominant carrier's application to discontinue service, the application is granted on the 31st day unless the Commission notifies the carrier otherwise before that day. Additionally, a carrier seeking to discontinue service must notify all affected customers in writing of its plans to do so as well as notify and submit a copy of its application to the public utility commission and to the governor of the state in which such action is proposed. The notice must indicate the period for which an objection to the discontinuance of service may be filed. A non-dominant carrier must provide only 15 days for the filing of comments in objection, whereas a dominant carrier must provide 30 days for comments.

I. Rate-of-return regulation (47 C.F.R. Part 65).

Part 65 establishes procedures and methodologies for the prescription of interstate access rates-of-return, including prerequisites for the initiation of rate-of-return prescription proceedings, the conduct of such proceedings, the formulas required for the calculation of the prescribed rate-of-return, and the nature and timing of rate-of-return reports that must be filed by

the dominant local exchange carrier. The rate-of-return prescription presumes a carrier is subject to interstate exchange access rate regulation.<sup>244</sup>

J. Regulation of access charge rates and rate structure (47 C.F.R. Part 69, Subparts A and B).

The rate structure under which dominant local exchange carriers may recover their interstate costs is heavily regulated. As a rate-of-return carrier, ACS is subject to the rate structure prescriptions set forth in Part 69 of the FCC’s rules, subparts A and B.<sup>245</sup>

**II. Regulation of Broadband Services Under Title II of the Communications Act**

To the extent not covered by the foregoing, ACS seeks forbearance from telecommunications carrier or common carrier regulation under Title II of the Communications Act and the FCC’s rules thereunder, for all services it offers or may offer that meet the FCC’s definition of “broadband” (capable of 200 kbps transmission in each direction). *See Petition of the Verizon Telephone Companies for Forbearance under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Their Broadband Services*, WC Docket No. 04-440 (filed Dec. 20, 2004); *see also* Verizon’s subsequent *ex parte* filings in that proceeding, *supra* n.11.

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<sup>244</sup> See 47 C.F.R. § 65.1(a).

<sup>245</sup> Subparts C and H of Part 69 apply only to price cap carriers and thus are not relevant to this petition. Subparts D, E and F govern accounting and reporting requirements not the subject of this petition. Subpart G governs NECA and also is not covered by this petition.



# Exhibit A

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

In the Matter of	)	
	)	
Petition of ACS of Anchorage, Inc. Pursuant to	)	
Section 10 of the Communications Act of 1934, as	)	WC Docket No. [ ]
amended (47 U.S.C. 160(c)), for Forbearance from	)	
Certain Dominant Carrier Regulation of Its	)	
Interstate Access Services, and for Forbearance	)	
from Title II Regulation of Its Broadband Services,	)	
in the Anchorage, Alaska, Incumbent Local	)	
Exchange Carrier Study Area	)	

STATEMENT OF ROBERT G. DOUCETTE

1. I currently serve as Director – Corporate Strategy for Alaska Communications Systems, the parent of ACS of Anchorage, Inc. (“ACS”). I have more than 20 years of experience in the telecommunications industry, including almost two years in my current position with ACS. Before coming to ACS, I worked 15 years at Sprint in various positions including strategic planning, marketing, and product management. Prior to that I worked for Nortel for four years in product management.

2. Based on my personal knowledge of the services ACS provides to the public and the wholesale and UNE lines ACS provides to GCI, and based on public information and my reasonable assumptions regarding the services General Communication, Inc. (“GCI”) and other competitors in the Anchorage telecommunications market provide, below are my estimates of Anchorage study area market shares in the following three product markets as of December 31, 2005. These estimates are based in part on the Carrier and Area Specific Bulk Bill (“CASBB”) numbers reported by GCI to the Regulatory Commission of Alaska (“RCA”) as part of the

current intrastate access charge scheme, and on the same data underlying ACS's CASBB reports. ACS reports as part of its CASBB numbers both its own retail lines as well as any wholesale lines, but the latter are not included in the estimates of ACS's market share below. The CASBB numbers reported by GCI include lines served over its own facilities, those served on ACS's UNE lines, and those served through multiplexing of ACS UNE loops.

3. The three product markets below are defined more precisely in the petition to which my statement is attached. Generally, however, mass market local exchange lines are wireline, voice grade connections, while enterprise connections include wireline, voice grade connections (lines and trunks) as well as broadband Internet access connections. Special access connections greater than DS-1 are not included, but are unlikely to be of sufficient quantity to materially affect the market share figures.

4. In its First Quarter 2006 Financial Results statement released May 9, 2006, GCI publicly stated that approximately 63% of its lines statewide provide residential service, while the remainder serve business customers. In my calculation of the estimates below, I have assumed this statement applies to Anchorage as well. Additionally, because ACS does not sell DSL lines without voice, a DSL line is counted as both a local exchange voice line and a broadband connection.

Market Share – Mass Market Local Exchange Lines

GCI	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
ACS	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
AT&T Alascom	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
TelAlaska	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]

Market Share – Mass Market Broadband Connections

GCI	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
ACS	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
Other	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]

Market Share – Enterprise Connections

ACS	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
GCI	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]
Other	[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]

5. In the overall Anchorage local exchange market, including both mass market and enterprise customers, I estimate that as of December 31, 2005 GCI's market share was approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent, while ACS's market share was approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent. The market share of other competitors was approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent.

6. In the overall Anchorage broadband services market, including both mass market and enterprise customers, I estimate that as of December 31, 2005 GCI's market share was approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent, while ACS's market share was approximately [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent.

7. I estimate that, out of the lines and connections served by GCI, the following percentages are served by GCI over facilities owned by GCI, rather than leased from ACS. The following estimates are calculated in part based on the total number of lines ACS leases to GCI, which is known to ACS. Moreover, when GCI orders leased lines from ACS, GCI identifies them as serving either residential or business customers. I used these figures in calculating the estimated percentages below, which are as of December 31, 2005.

Mass Market Local           **[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]**  
Exchange Lines  
Mass Market Broadband   **[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]**  
Connections  
Enterprise Connections   **[BEGIN CONFIDENTIAL] [END CONFIDENTIAL]**

Respectfully submitted,

*/s/ Robert G. Doucette*  
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MS 65  
Anchorage, AK 99503-6091



# Exhibit B

**Thomson StreetEvents**<sup>SM</sup>



## Conference Call Transcript

**GNCMA - Q4 2005 General Communication Earnings Conference Call**

Event Date/Time: Mar. 02. 2006 / 2:00PM ET