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October 10, 2006

**Ex Parte**

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

Re: *Petition of ACS Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as amended, for Forbearance from Section 251(c)(3) and 252(d)(1),*  
WC Docket No. 05-281.

Dear Ms. Dortch:

In response to a question from FCC staff, this ex parte explains that the 11 wire centers that ACS of Anchorage, Inc. ("ACS") has listed in Tariff No. 4 filed by the National Exchange Carrier Association (NECA Tariff No. 4), all constitute "wire centers" as that term has been defined in 47 C.F.R. 51.5. ACS argues, however, that notwithstanding its designation of eleven wire centers in NECA Tariff No. 4, it only has five wire centers within its Anchorage study area, because it only operates five stand-alone central office switches, with the six other wire centers as listed in NECA Tariff No. 4 served by remote switches.<sup>1</sup> ACS's unstated premise – that a "wire center" as defined in 47 C.F.R. 51.5 must be served by a standalone central office host switch – is incorrect. It is well established that wire centers may be served by a remote switch. Indeed, ACS's declarant Thomas Meade concedes as much when he argues, "NECA tariff locations are determined by accounting and access charge practices rather than markets."<sup>2</sup>

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<sup>1</sup> Letter from Karen Brinkmann, Counsel for ACS Anchorage, Inc., to Marlene Dortch, Secretary, FCC, dated September 20, 2006, at 1 ("ACS September 20, 2006 ex parte"); Statement of Thomas R. Meade in Support of ACS's *Ex Parte* Submission filed September 8, 2006, at ¶ 3 (Meade September 8, 2006 Declaration) ("NECA Tariff #4 contains eleven locations: five switches and six remotes"), attached to Letter from Karen Brinkmann, Counsel for ACS Anchorage, Inc., to Marlene Dortch, Secretary, FCC, dated September 8, 2006.

<sup>2</sup> Meade September 8, 2006 Declaration at ¶ 2.

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The Commission's Part 51 rules contain the following definition of "wire center," which is used in its unbundling rules to determine, *inter alia*, when an incumbent local exchange carrier (ILEC) must provide a requesting carrier with access to certain high capacity loops:

*Wire center.* A wire center is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

This definition expressly incorporates the following definition of a "central office," set forth in the Appendix to the Commission's Part 36 (Jurisdictional Separations) rules:

*Central Office.* A switching unit, in a telephone system which provides service to the general public, having the necessary equipment and operations arrangements for terminating and interconnecting subscriber lines and trunks or trunks only. There may be more than one central office in a building.

Furthermore, the definition of a "trunk" in the same Part 36 Appendix is:

*Trunks.* Circuit between switchboards or other switching equipment, as distinguished from circuits which extend between central office switching equipment and information origination/termination equipment.

Taken together, these definitions establish that a "wire center" is the area served by a "central office," and a "central office" is a location that performs switching and connects trunks and subscriber loops. Nothing in these definitions distinguishes a host switch from a remote switch in defining a "central office," or defines a "central office" with respect to "standalone" switching capability. To the contrary, the Appendix to Part 36 also contains a separate definition of a "host central office," demonstrating that the term "central office" is more expansive than just "host central office" switches, and thus must include remote switches.<sup>3</sup>

It should be undisputed that the eleven wire centers listed in NECA Tariff No. 4 meet the definition of "central office" set forth in the Appendix to Part 36. ACS's declarant Meade states that ACS has standalone DMS-100 switches at the North, Central, South, East and West wire center buildings.<sup>4</sup> The other six locations listed in the NECA tariff, O'Malley, Rabbit Creek, Indian/Bird, Girdwood, Ft. Elmendorf and Ft. Richardson are remote switches.<sup>5</sup> All eleven of

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<sup>3</sup> The definition of a "host central office" is "An electronic analog or digital base switching unit containing the central call processing functions which service the host office and its remote locations." RAO Letter 21, DA 92-1225 (revised September 8, 1992) further defines and distinguishes "remote switches" from "remote terminals of a concentrator."

<sup>4</sup> Meade September 8, 2006 Declaration at ¶ 3 ("ACS's wire center categorization indicates where ACS has standalone switches (DMS 100s).")

<sup>5</sup> In addition to these six remote switches, GCI also believes that Hope should be treated as a separate geographic market for the purposes of forbearance analysis. Although Hope is served by a remote terminal connected to the

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these switches – both the hosts and the remotes – are switching equipment connecting trunks with subscriber loops. The Commission’s Responsible Accounting Officer (RAO) Letter 21 makes crystal clear that a “remote switch” is, in fact, a switch.<sup>6</sup>

In fact, it is common for a wire center to be served by a remote and for a single host to serve remotes located in multiple wire centers. As the Commission has previously explained:

In cases where a number of wire centers with relatively few people within their boundaries are located in close proximity to one another, it may be more economical to use the processor capacity of a single switch to supervise the calls of the customers in the boundaries of all the wire centers. In that case, a full-capacity switch (known as a host) is placed in one of the wire centers and less expensive, more limited-capacity switches (known as remotes) are placed in the other wire centers. The remotes are then connected to the host with interoffice facilities. Switches that are located in wire centers with enough customers within their boundaries to merit their own full-capacity switches and that do not serve as hosts to any other wire centers are called stand-alone switches.<sup>7</sup>

Moreover, from an examination of the Local Exchange Routing Guide, it appears that the wire centers used by the Commission in the *Omaha Order* included a number of wire centers served by remotes.<sup>8</sup>

Furthermore, ACS lists the six remotes as wire centers in NECA Tariff No. 4 because ACS performs end office switching at those locations and collects switched transport access charges for carrying traffic to and from those remote switches, not because of the emergency stand-alone software capability embedded in those switches, as Mr. Meade asserts.<sup>9</sup> ACS’s interstate access tariff, Tariff F.C.C. No. 1, explains that for Local Transport charges, “[t]he mileage to be used to determine the monthly rate for Local Transport is calculated on airline distances between the end office switch, which may be a Remote Switching Module (where the

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South Wire Center, Hope is not contiguous with the South Wire Center and, unlike the South Wire Center, lies entirely outside of GCI’s cable franchise area. Thus, the competitive alternatives in Hope are not comparable to the competitive alternatives in South, and it is therefore appropriate to treat Hope as a distinct geographic market from South.

<sup>6</sup> In RAO 21, the Commission defined “remote switch” as:

A unit that performs some, but not necessarily all, of the basic switching functions. The remote switch may be wholly or partially controlled by a control unit or processor located in another switch, i.e., the ‘host’ switch, but it is classified as a switch if the capability to provide a switched path is at the remote location. The remote switch may depend on the host switch for such functions as routing, billing, traffic measurement and custom calling. Calls between subscribers served by the same remote switching unit can be switched in the remote unit. When this occurs, the voice path does not extend to the host switch; however, a link to the host switch may be required for call control purposes.

<sup>7</sup> *Federal-State Joint Board on Universal Service*, Tenth Report and Order, 14 FCC Rcd. 20156, 20166 (¶ 15) (1999).

<sup>8</sup> It appears that the Gretna, Springfield, Valley, Manawa, Crescent, Glenwood, Malvern, Missouri Valley, Neola and Underwood wire centers are all served by remotes.

<sup>9</sup> Meade September 8, 2006 Declaration at ¶ 3.

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call carried by Local Transport originates or terminates) and the customer's serving wire center. . . . Where applicable, the V&H coordinates method is used to determine mileage. This method is set forth in the NATIONAL EXCHANGE CARRIER ASSOCIATION, INC. TARIFF F.C.C. NO. 4 for Wire Center Information (V&H coordinates)."<sup>10</sup> To make clear its ability to charge switched transport access charges to these remotes, ACS's tariff expressly defines an "end office" as "includ[ing] Remote Switching Modules/Systems served by a Host Central Office *in a different wire center*."<sup>11</sup> In other words, ACS has designated each of the six remote switches as wire centers in NECA Tariff No. 4 so that it can charge Local Transport access charges when it carries an interstate, interexchange call between the remote and one of its DMS-100s (which are necessarily the serving wire centers for an interexchange carrier).

Accordingly, there is simply no basis for ACS's naked, unsupported assertion that the definition of "wire center" in the Commission's Part 51 rules includes only standalone or host switches, and not remotes. To the contrary, both the Commission's precedent and ACS's own tariffs are clear – the six remote locations are also wire centers under the FCC's rules.

ACS is correct when it argues that wire centers are not markets *per se*. This truism, however, cuts against ACS's attempts to aggregate the remote locations with the host locations. The Commission defines relevant geographic markets by aggregating areas of similar competitive choices, not areas with disparate choices.<sup>12</sup> In defining geographic markets to capture these areas of similar competitive choices, the Commission will at times use an existing geographical area, such as a wire center, for administrative convenience.<sup>13</sup>

ACS ignores the underlying purpose of the Commission's geographic market definitions by arguing for a set of wire centers that would obscure differences in competitive choices. In other words, ACS would have the Commission use – solely for this proceeding – a set of wire centers within which competitive conditions are more diverse and heterogeneous than within the NECA Tariff No. 4 wire centers. Given the choice between two sets of wire centers, the Commission's competition analysis will be more accurate and revealing if the competitive conditions within each wire center are more, rather than less, homogeneous.

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<sup>10</sup> ACS of Anchorage Tariff F.C.C. No. 1, § 6.4.6, issued September 26, 2000 (Mileage Measurement). Under the definitions in ACS's tariff, a "wire center" is "a building in which one or more central offices, used for the provision of Telephone Exchange Services, are located." *Id.* at § 2.6 (definition of Wire Center).

<sup>11</sup> *Id.* at § 2.6 (definition of End Office) (emphasis added). In ACS's tariff, the terms "End Office" and "Central Office" are synonymous. *See id.* at § 2.6 (Central Office is defined as "See End Office").

<sup>12</sup> *See, e.g., SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Red. 18290, 18345 (¶ 97) (2005); *Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Red. 18433, 18486 (¶ 98) (2005). *See also* GCI Opposition, filed January 9, 2006, at 13-14; Declaration of David E. M. Sappington, Exhibit D to GCI Opposition at ¶¶ 32-39, and cases cited therein.

<sup>13</sup> *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, Memorandum Opinion and Order, 20 FCC Red. 19415, 19451(¶ 69 n. 186) (2005) (stating that the costs of measuring facilities-based coverage on the basis of individual end users in that case exceeds the benefits, but also rejecting measuring facilities-based coverage on an MSA basis).

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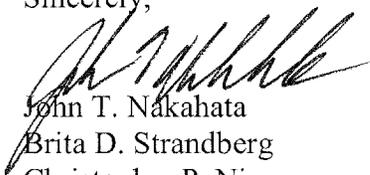
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To illustrate the shortcomings of ACS's preferred approach, consider Girdwood. ACS would treat Girdwood as part of the South Wire Center, even though the NECA-defined South Wire Center (a) is much more populous than Girdwood and (b) unlike Girdwood, lies within GCI's cable franchise territory. Combining Girdwood with South ignores these differences, treating customers with no possibility of receiving cable telephony service from GCI as equivalent to those already receiving such service. Similarly, ACS would combine O'Malley and Rabbit Creek with South, even though in O'Malley GCI will not yet be able to serve [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] residential customer locations over cable telephony by the end of 2006, and in Rabbit Creek, less than [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] of residential customer locations will be located on upgraded cable telephony plant by that time, as compared with [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] of residential customer locations in the South Wire Center.<sup>14</sup> These differences are plainly relevant to the Commission's forbearance analysis, yet ACS argues for wire centers that would mask them. Because ACS does not, and cannot, explain why using wire centers with more heterogeneous competitive conditions creates a more robust and accurate forbearance analysis, it would be arbitrary and capricious for the Commission to define the appropriate geographic markets as ACS's proposed wire centers.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata

Brita D. Strandberg

Christopher P. Nierman

*Counsel to General Communication, Inc.*

cc: Renee Crittendon  
Jeremy Miller  
Tim Stelzig  
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<sup>14</sup> Exhibit 1 to Declaration of Alan Mitchell, Exhibit D to GCI Ex Parte, filed July 3, 2006. These projections were made as of July 2006.