

February 4, 2008

**Ex Parte**

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

Re: *Federal State Joint Board on Universal Service, High Cost Universal  
Service Support*, WC Docket No. 05-337, CC Docket No. 96-45

Dear Ms. Dortch:

General Communication, Inc. (“GCI”) hereby responds to Alltel Wireless’s (“Alltel”) ex parte letter dated January 30, 2008. While Alltel has long opposed the Joint Board’s proposed interim cap on CETC high cost fund support (while accepting a less restrictive cap on its own high cost receipts), Alltel’s comments with respect to GCI’s proposed exclusion for FCC-defined Tribal Lands (including Alaska native regions) are cynical and ill-informed. Alltel’s objections amount to nothing more than the same old Washington game of hostage-taking: in this case, Alltel attempts to protect itself from losing some of its hundreds of millions of dollars in high cost support by trying to torpedo support stability for CETCs that actually and demonstrably deliver improved broadband services, and in some cases, first-time wireless service, to Tribal Lands. This is shameful. Alltel should be willing to oppose the cap straight up, without playing games with the futures of the residents of Tribal Lands.

While Alltel tries to downplay the need for continued support for investment in broadband networks to serve Tribal Lands (including Alaska native communities), Alltel ignores comments by the people most directly affected – the residents of Tribal Lands. Over six months ago, the Alaska Federation of Natives told the FCC:

The majority of Alaska Natives live in approximately 200 small rural towns and even smaller rural villages spread out over hundreds of thousands of square miles. These communities, which are not served by roads, depend upon satellite networks to link them to urban Alaska and the

rest of the nation. . . . Without access to the advanced telecommunications and information services (including mobile wireless and broadband) that less remote communities enjoy, these 200 rural Alaska communities will be denied the economic, educational, public health, and public safety benefits that Congress intended the Fund to provide to rural America.<sup>1</sup>

This is precisely the need GCI seeks to fill. Contrary to Alltel's uninformed assertions, GCI has already described on the record its plan to deliver modern, wireless broadband services to these communities – and also that such services cannot be delivered if the interim cap is applied to the Tribal Land areas.<sup>2</sup> What Alltel proposes is to continue to deny these 200 rural Alaska communities (as well as Lower 48 Tribal Lands) the same economic, educational, public health and public safety benefits that Congress intended to provide to *all* Americans. At best, (to paraphrase French Queen Marie Antoinette) Alltel is telling the FCC to let these communities “eat dial-up.”

Indeed, what is most remarkable about Alltel's letter is that Alltel implicitly admits that notwithstanding the fact it receives approximately \$270 million annually in high cost support,<sup>3</sup> Alltel apparently has no plans to deliver state of the art broadband services to the Tribal Lands it serves. Make no mistake, this is not a case of technological limitations; this is a choice *not* to invest in the increasingly available capabilities. Where is Alltel sending the hundreds of millions of dollars it receives each year in high cost support – to its private equity investors?

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<sup>1</sup> Letter of Julie Kitka, Alaska Federation of Natives, Inc., to Marlene Dortch, Secretary, FCC, WC Docket 05-337 and CC Docket 96-45 (filed June 26, 2007)(“AFN Letter”).

<sup>2</sup> Comments of General Communication Inc., Dockets WC 05-337 and CC 96-45, at 6-9 (filed June 6, 2007)(providing maps of GCI's planned rural wireless and broadband deployment, as compared with broadband availability without that deployment, and predicting that the interim cap without the exclusion would reduce support to the rural villages to half of what the rural ILEC currently receives per line, an amount that is insufficient to finance the capital necessary for deployment of the rural broadband infrastructure).

<sup>3</sup> As a condition of its transfer of control granted in October 2007, Alltel's high cost USF support is “capped at the level of support that it received as a competitive ETC for 2007, measure as of the end of June 2007 on an annualized basis.” *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For Consent To Transfer Control of Licenses, Leases and Authorizations*, FCC 07-185, 22 FCC Rcd. 19517, 19521 (¶ 9)(2007). In the second quarter 2007, Alltel was projected to receive \$271 million in high cost support for CETCs that USAC listed as “eligible.” If the projected support for non-“eligible” Alltel CETCs is included, Alltel would receive an additional \$20 million in high cost USF support. See Universal Service Administrative Company, Appendix HC01 –High Cost Support Projected by State by Study Area – 2Q 2007, available at: [www.usac.org/about/governance/fcc-filings/2007/quarter-2.aspx](http://www.usac.org/about/governance/fcc-filings/2007/quarter-2.aspx). Without its company-specific cap, Alltel's high cost support as a CETC would be even higher. A significant difference between Alltel's company-specific cap and the Joint Board proposed interim cap is that the Joint Board cap applies to the high cost support for all CETCs within a state. Thus, Alltel (and any other CETC) faces the prospect that its support will decline from current levels under the Joint Board proposed cap. Clearly, what Alltel most fears is seeing its abundant USF draw decrease.

Turning to the actual facts, Alltel either has shocking trouble reading GCI's proposals and the ex partes already in the record, or it has made a highly cynical assessment to scuttle the truth in service of its anti-cap cause:<sup>4</sup>

- First, GCI's proposed exclusion does not apply only to Alaska, but to every area defined as a "tribal land" under 47 C.F.R. § 54.400(e) -- which are all the areas eligible today for Tribal Lands Lifeline Support.<sup>5</sup> USAC data shows that Tribal Lands Lifeline Support is distributed to over 1600 study areas in parts of all 50 states.<sup>6</sup> The tribal lands areas served by Alltel, and those served by all Alaska CETCs, are covered by the proposed exclusion.
- Second, GCI's proposed exclusion is competitively and technologically neutral. It is not limited to any single company or class of CETCs. To be eligible, the CETC must simply meet the technology neutral broadband performance requirement: the CETC must offer broadband services of at least 400 kbps, in one direction, to 50 % of the eligible households in its ETC service area, and must commit to offer broadband of at least 1 mbps, in one direction, to 80 % of eligible households in its ETC service area within three years.<sup>7</sup> The technology that GCI is deploying to deliver these services is not proprietary to GCI, but is also available to other companies. Indeed, ACS Wireless has already deployed wireless broadband services of up to 2.4 mbps, in one direction, but only in selected urban/suburban portions of its service areas in Alaska.<sup>8</sup> Of course, if a CETC elects to receive support under the exclusion, it is limited to a single payment per residential or single line business account, rather than receiving support for each handset. This limitation too is technologically and competitively neutral, and does not favor any particular provider. Further, it is hard to see how such a voluntary limitation on funding multiple handsets would "creat[e] undue

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<sup>4</sup> Alltel cannot even maintain consistency within its bombastic rhetoric, first claiming (wrongly) that only GCI can qualify for the exclusion and then going on to make the impossible allegation that such single qualification would somehow "reduce support for every other CETC in Alaska and across the country" (at 1). To the contrary, GCI's proposal would have no impact on CETCs in any given state beyond that of the imposition of the cap itself. Letter from Tina Pidgeon, Vice President, Federal Regulatory Affairs, GCI, to Marlene Dortch, Secretary, FCC, WC Docket No. 05-337 and CC Docket No. 96-45, at 4 (filed May 31, 2007).

<sup>5</sup> The FCC has stayed application of the "near-reservation" portion of this definition. See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 17,112 (2000).

<sup>6</sup> See Universal Service Administrative Company, Appendix LI01, available at <http://www.usac.org/about/governance/fcc-filings/2008/quarter-2.aspx> (last visited February 3, 2008).

<sup>7</sup> In the case of GCI, its CETC service areas are the same as the ILEC study areas.

<sup>8</sup> According to ACS's website, in its "strongest signal areas," its peak data rate per user for wireless mobile broadband is 2.4 mbps, with an average data rate per user of 300-500 kbps. In the "available signal areas", the peak data rate per user is 156 kbps, with an average data rate per user of 60-80 kbps. See <http://www.acsalaska.com/NR/rdonlyres/64686B8E-9B6D-48B0-A365-CCF9E954EC4D/0/2007MobileBroadbandMaps.pdf>.

advantages for a larger competitor”, as Alltel blithely claims (at 2). Especially for providers seeking to deploy new facilities, the choice is this: secure a stable funding level or drive excessive funding via multiple handset subscriptions?

- Third, GCI’s proposal does not require *any* CETC in any part of the United States to expand the areas that it serves, and thus does not favor providers with larger networks. ACS Wireless (cited as an example by Alltel) does not have to serve Tribal Lands outside of its current service areas to qualify. All a CETC must do is meet the minimum broadband performance and coverage requirements within its ETC serving area, and agree to forego multiple support payments for its residential and single line business accounts.
- Fourth, as GCI has previously demonstrated, ACS’s arguments about satellite transport in Alaska are a red-herring. This is a subject about which Alltel has no knowledge, as Alltel does not participate in the Alaska market. Indeed, satellite backhaul for Alaska can be provided using any of at least four satellites with good Alaska coverage - two operated by Intelsat and two by SES Americom. Alaska's two existing facilities-based long distance transport providers connecting the Alaska Bush with the rest of the state, GCI and AT&T Alascom, lease capacity on one or more of these satellites. There are no significant regulatory barriers to another provider (such as ACS) doing the same, and GCI is not aware of any contractual prohibitions on Intelsat or SES Americom that would preclude them from leasing capacity to ACS. ACS can purchase transponder space to enter the satellite backhaul market if it wishes to *invest* to do so. Furthermore, because ACS Wireless primarily serves areas on Alaska’s limited road (and in southeast Alaska, marine) highway network, ACS Wireless does not have to use satellite backhaul in much of its service area. And outside Alaska, this argument does not even apply.
- Fifth, *nothing* about GCI’s proposed exclusion prejudices the Commission’s ability to adopt long term reforms. Indeed, now that the Commission has released its trio of long term reform NPRMs it is absolutely clear that the Commission will need to find ways to address the unique needs of rural America, including fostering the innovative solutions that carriers such as GCI can deliver. Moreover, the Commission will get the opportunity to see some reform proposals – such as limiting CETC support to one payment per residential or single line business account – actually put into practice while it considers long term reform.

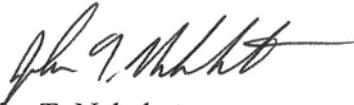
Of course, the most significant difference between the path that Alltel proposes and the path GCI proposes is that Alltel proposes *no changes* to CETC high cost support pending long term reforms and proposes no way that universal service dollars are required to work harder pending long term reform. GCI proposes that, where the exclusion would apply, the CETC would have to do more with less than under the status quo. The CETC must make dollars work harder to deliver broadband of at least 400 kbps

moving up to 1 mbps, and they must do so while foregoing the abusive multiple support payments for a multi-handset family plans. As GCI has previously pointed out, ACS Wireless has run family plan promotions with \$ 100 per handset incentive payments for up to six additional handsets.<sup>9</sup>

GCI's proposed exclusion from the Joint Board's interim CETC high cost support cap thus promotes broadband deployment in Tribal Lands (including Alaska Native areas), meets the economic, educational, public health and public safety needs of these communities, and does so while requiring carriers electing the exclusions to themselves embrace reform by foregoing multiple payments for residential and single line business accounts. Thus, the Alaska Federation of Natives told the Commission that if it adopted the interim cap, it should "include in its order an exclusion from the cap for Alaska Native regions and for tribal lands in the lower 48 states, which face most of the same telecommunications challenges as the 200 rural Alaska communities."<sup>10</sup>

Every member of the Commission has recognized the dual importance of continuing rural broadband support and moving the high cost universal service program to a more sustainable footing. GCI's proposed exclusion, in the context of an interim cap and while the Commission continues to grapple with long term reform proposals, accomplishes both.

Sincerely,



John T. Nakahata  
*Counsel to General Communication, Inc.*

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<sup>9</sup> See Letter of John T. Nakahata, Counsel for GCI, to Marlene Dortch, Secretary, FCC, WC Docket 05-337 and CC Docket 96-45, at 2 (filed December 19, 2007). As noted in that letter, in the Matanuska Valley, ACS Wireless receives between \$23.76 and \$88.42 per additional handset in monthly high cost support; on the Kenai Peninsula, ACS Wireless receives up to \$35.20 per additional handset in monthly high cost support. This is in addition to ACS's additional recurring monthly charges to its customer. *Id.*

<sup>10</sup> AFN Letter at 2.