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Ex Parte Via Electronic Filing

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

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

Dear Ms. Dortch:

The Rural Independent Competitive Alliance ("RICA") has followed with interest and concern the recent "he said - she said" debate in *Ex Parte* filings by both General Communications, Inc. ("GCI") and ACS Wireless ("ACS").[1] The correspondence from GCI advocates the addition of a special tailored exemption to the Joint Board proposal for an interim cap on USF.

RICA is a national association whose members are competitive local exchange carriers ("CLECs") that are affiliated with rural incumbent local exchange carriers ("ILECs") and provide facilities-based service in rural areas. Although many RICA members have been designated as competitive Eligible Telecommunications Carriers ("ETCs"), and receive high cost support based on the identical support rule, RICA and its members support the adoption of an interim USF cap in order to curtail the exponential growth in demand on the Fund.

RICA opposes the exemption promoted by GCI. While the exemption proposed by GCI, and the modifications to the GCI proposal suggested by ACS, would ostensibly be shrouded to appear to focus on special assistance to Alaska and the deployment of broadband services to

[1] See, e.g., GCI *ex parte* Letters of May 31, 2007, November 2, 2007 and February 11, 2008; and ACS *ex parte* ex parte Letters of November 14, 2007 and February 4, 2007.

Alaska's Bush villages, it appears that the debate and the proposed exemptions actually focus only on the interests of GCI and ACS.[2] To the extent any competitive ETC has legitimate concerns that the imposition of a USF cap may impair its ability to provide Universal Service, those concerns may be readily addressed by permitting all competitive ETCs the alternative of obtaining USF based on a showing of its own costs, as RICA has long advocated.

In comments filed in this proceeding on June 6, 2007, RICA urged the Commission to proceed to adopt the proposed interim cap notwithstanding the fact that many of its members, like both GCI and ACS, receive USF based on the discredited identical support rule. In its comments, RICA reiterated its long-standing proposal to end the identical support rule and to require competitive ETCs to utilize actual costs as the basis for distribution of the USF they each receive. RICA suggested three modifications to the Joint Board's interim cap proposal:

1. A fixed sunset of 18 months from the effective date of the cap should be incorporated as a means to encourage all parties to proceed with diligence to resolve the long standing questions under consideration in this proceeding;

2. The cap should be based on more recent data instead of Year 2006 data because the use of older data is overly disruptive to CETCs, many of which have made capital commitments based on more recent ETC certifications;[3] and

3. Any CETC, wireline or wireless, that can demonstrate its actual costs of providing universal service warrant funding above the capped amount should be permitted to receive USF based on its own costs.

RICA is gratified to note that the Commission in its most recent *Notice of Proposed Rulemakings* in these proceedings has concluded that the identical support rule must be discarded. RICA also submits that the Commission has prudently initiated action to contain the unchecked growth of the USF by imposing individual company caps as conditions for its approval of transactions involving AllTel and AT&T.

RICA members are well aware that the Commission has previously utilized similar conditions to ensure that the costs of acquiring operating rights and assets in high cost to serve areas are not essentially funded by the USF. Prior to implementing changes in the procedures applicable to acquisitions by rural incumbent telephone companies of other rural service exchanges, the FCC regularly imposed similar USF caps. In contrast, however, to the recent caps imposed on AllTel and AT&T, the FCC did not permit the rural incumbent LECs to overcome the impact of the individual company USF caps by a showing of their actual costs.

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[2] In an *ex parte* Letter to the Commission dated February 14, 2008, the Alaska Telephone Association opposed the proposed exemption noting that the proposed exemption is "blatantly self-serving."

[3] In its June 6, 2007 comments, RICA suggested the use of Year 2007 data. With the intervening 9 months, and the filing of new certifications and deployment plans as well as the designation of additional ETCs, equity demands that any new cap should be based on the most recent data available in order to ensure that ETCs have the opportunity to meet the commitments they have made in obtaining their ETC designations.

RICA respectfully submits that the Commission has now set out a course that truly serves the public interest by imposing a cap that incorporates the failsafe device of permitting a competitive ETC to demonstrate that its individual costs justify the need to overcome the impact of the cap. By conditioning transaction approvals for both AT&T and AllTel on the imposition of a cap that can be displaced by a showing of need based on actual costs, the Commission has initiated substantive action that concurrently curbs the unchecked growth of USF and permits growth where there is an actual demonstration of need based on costs.

RICA understands that GCI has undoubtedly proposed the "Alaska Bush" exemption because it knows that its own access to USF may otherwise be limited as a condition for approval of a GCI transaction that is pending before the Commission. GCI is undoubtedly concerned that the FCC will impose a cap on its USF that is similar to the more recent caps the FCC has imposed in its approval of transactions involving AllTel and AT&T. While RICA is sympathetic with the concerns that GCI raises with regard to the deployment of broadband services in Alaska Bush villages, RICA respectfully notes that building and maintaining telecommunications networks to support universal service throughout all of rural America is no less important or vital to the public interest.

Moreover and most significantly, neither GCI nor any other competitive ETC has cause for concern that the imposition of a cap on its USF distribution will impede its ability to provide Universal Service. If the FCC conditions approval of GCI's proposed transaction on the same USF cap condition that was applied to both AllTel and AT&T, GCI will have the opportunity to demonstrate that its actual costs of providing universal service warrants funding above the capped amount.

Accordingly, RICA respectfully urges the Commission to reject the proposed GCI exemption, and to maintain the prudent and effective course it has established. By continuing the steps the FCC has initiated both to limit the growth of the USF and to enable competitive ETCs to demonstrate a need for additional USF through a showing of their own costs, the Commission can achieve meaningful comprehensive reform of the high cost USF program that will ensure that the USF program is sustained and directed in a manner that achieves the Commission's Universal Service goals.

Sincerely,

Stephen G. Kraskin

Stephen G. Kraskin
On behalf of the
Rural Independent Competitive Alliance