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June 13, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Petition for Reconsideration of ACS of Anchorage, Inc.; *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as 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*, WC Docket No. 06-109;
Notice of *Ex Parte* Meetings

Dear Ms. Dortch:

On June 13, 2008, Leonard Steinberg and Thomas Meade of Alaska Communications Systems Group, Inc. (“ACS”), and Karen Brinkmann and Elizabeth Park of Latham & Watkins LLP, met with Amy Bender, Legal Advisor to Chairman Martin; Wayne Leighton, Legal Advisor to Commissioner Tate; and John Hunter, Chief of Staff & Senior Legal Advisor to Commissioner McDowell regarding ACS’s Petition for Reconsideration in the Commission’s order in the above-referenced proceeding.¹

In the meetings, ACS reiterated its arguments in support of the forbearance relief requested in this proceeding with respect to special access services. Based on the high levels of competition for special access in Anchorage, and the conditions that ACS proposed, forbearance from the dominant carrier regulation that ACS specified in this proceeding is warranted. During

¹ *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as 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*, WC Docket No. 06-109, Memorandum Opinion & Order, FCC 07-149 (rel. Aug. 20, 2007) (“Forbearance Order”).

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the meetings, ACS left behind the attached summary of its arguments. ACS urged each of the legal advisors to act on the Petition in an expeditious manner and grant the requested relief.

* * * * *

If you have any questions, please feel free to contact the undersigned.

Respectfully submitted,

/s/

Karen Brinkmann
Elizabeth R. Park

cc: Amy Bender
Wayne Leighton
John Hunter

ACS of Anchorage, Inc.
Petition for Reconsideration of Forbearance from Certain Dominant Carrier Regulation
WC Docket No. 06-109

Executive Summary

- On August, 20, 2007, the Commission granted ACS of Anchorage (“ACS”) forbearance from certain dominant carrier regulation but denied relief with respect to special access and future services. ACS filed a petition seeking reconsideration on September 18, 2007.
- ACS seeks reconsideration because:
 - The record demonstrates a high degree of competition in the Anchorage special access market;
 - The primary competitor in the market has deployed its own facilities, including its own extensive fiber network, in addition to an extensive hybrid cable network;
 - ACS has requested special access relief subject to conditions which other carriers have not offered that ensure customer access and price protection; and
 - ACS’s request for special access relief is unrelated to, and involves a different set of rules, than the broader nation-wide price cap special access proceeding.

Background

- The Commission granted ACS forbearance from certain dominant carrier regulation with respect to all interstate switched access services and to specific broadband special access services that ACS currently offers to enterprise customers. The Commission also placed a number of conditions on the relief granted. However, the Commission denied relief with respect to other special access services and for broadband services that ACS may offer in the future.
- ACS filed a petition seeking reconsideration of the following:
 - Denial of forbearance relief for special access services;
 - Condition that ACS’s USF contribution obligation be calculated as if its subscriber line charge (“SLC”) were at the cap even if ACS lowers its SLC rates; and
 - Denial of relief for future broadband services.

Reconsideration of the Denial of Forbearance Relief for Special Access Services Would Promote Competition and Serve the Public Interest

- Relief on special access will allow ACS to offer services that are competitive with its competitors’ services, thereby promoting competitive rate reductions for enterprise end-users and long-distance, wireless and other carrier customers (as a result, lowering consumer rates).
 - ACS is currently constrained by mandatory rate structures and pricing requirements that do not apply to its competitors. ACS’s primary competitor has deployed competitive fiber and other facilities, over which it provides special access services on non-dominant terms, *i.e.*, lower and more flexible rates and terms.

- The FCC’s pending special access proceeding for price cap carriers should NOT impact the outcome of ACS’s request.
 - ACS is not a BOC, has never been a price cap carrier, and is subject to a different set of rules than the price cap carriers.
 - The conditions that ACS proposed, ensuring downward-only pricing flexibility for each rate element and continued availability of service while any customer is purchasing an ACS special access offering, would serve as a roadmap for addressing the concerns raised by petitioners in the broader price cap special access proceeding.
 - Additionally, competition in Anchorage is unique in that ACS’s primary competitor has deployed competitive facilities, including fiber facilities, with which it is able to provide competitive special access services.
- The Commission disregarded evidence in the record and its previous findings regarding competition in the Anchorage market and provided insufficient justification for rejecting ACS’s proposed conditions.
 - Facilities-based competition in the enterprise market as a whole (switched and special access), as well as in the broadband market in particular, is relevant to special access competition. Retail special access services are provided over the same network facilities as wholesale special access services, which are the same facilities that the FCC found competitive in much of Anchorage, in the UNE Forbearance Order.
 - ACS proposed to cap each special access rate element at current levels (*i.e.*, all individual rates would be capped, not just averaged or aggregated rates) and not to withdraw special access services without the consent of the affected customer. The Commission ignored this in denying forbearance, citing concerns about special access rates increasing, as well as undisclosed non-price factors.
- The Commission erred in applying an unprecedented building-by-building standard. The Commission has recognized that a building-by-building standard is administratively unworkable, and previously rejected this approach. Denying forbearance based on a novel evidentiary standard was arbitrary and capricious.

Requiring ACS to Freeze SLC Levels in Calculating USF Contributions Is Inconsistent with the Principles of Competitive Neutrality and Results in Discriminatory Contributions

- Without justification, the FCC required ACS to calculate its USF contribution using SLC levels at the current cap, regardless of actual SLC levels charged or revenues collected.
- This condition is contrary to the Communications Act and FCC policies because ACS’s USF contribution would be unrelated to actual end-user revenues.