Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
IP-Enabled Services	)	WC Docket No. 04-36

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Summary

There can be no doubt that the combination of Alaska's size, terrain, sparse population, large Native regions, and the atypical evolution of its communications industry presents distinct challenges when it comes to providing service to its citizens. The Commission has recognized these challenges, both by adopting a tribal lands and Alaska Native regions exception to the interim CETC cap – the implementation of which the Commission should clarify here – and by excluding Alaska from the proposed intercarrier compensation and USF distribution reforms.

Despite these actions and proposals, which will certainly benefit chronically underserved and remote Alaskan populations, the Commission's continued failure to grapple with fundamental, long-term universal service reform remains troubling, as does its refusal to define the outputs it wishes to achieve through high-cost support, including which services should be supported, and what rates for those services would be reasonably comparable, affordable, and sufficient. The Commission's urge to restrict marketplace competition as a quick fix to the growth of the high-cost fund is wholly unsupported. As Congress recognized in the 1996 Act, competition, not regulation, will best ensure that consumers receive the most advanced services at the lowest possible rates. The Commission provides no reason to alter that conclusion here. Accordingly, the Commission should not limit (or eliminate) ETC competition and should rethink its apparent assumption and presumption that the ILEC is the best universal service provider, especially with regard to broadband, which many service providers offer without any universal support whatsoever.

Finally, should the Commission classify interconnected VoIP as an information service generally, it should make clear that a carrier using IP technology to provide common carrier service under its state certification and pursuant to state regulation should be presumed to be providing the basic telecommunications service, and that any protocol conversion resulting from the use of IP technology does not reclassify the service as an information service.

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Introduction

General Communication, Inc. ("GCI") views the three draft proposals (collectively, "Draft Proposals") appended to the *Order on Remand and Report and Order and Further Notice of Proposed Rulemaking* ("*ICC/USF FNPRM*") with two minds.[1] First, GCI appreciates the Commission's recognition that Alaska is unique. The Alaska market has a distinct structure and history that differentiates it from those in the contiguous United States. Most notably, intrastate communications between remote communities and urban centers often travel via satellite. In addition, all switched interstate communications between Alaska and the lower 48 states are governed by Tariff 11 rates. The Commission has recognized the unique challenges of deploying infrastructure in Alaska Native regions and tribal lands, which have been historically underserved. Accordingly, GCI generally supports the Commission's proposal to exclude Alaska from the proposed intercarrier compensation and USF distribution reforms that would be applicable to carriers in the lower 48 states, and further urges the Commission to clarify the implementation of the existing tribal lands and Alaska Native regions exception to the interim cap.

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[1] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket no. 06-122, CC Docket No. 99-200, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36, FCC 08-262 (rel. Nov. 5, 2008) ("*ICC/USF FNPRM*").

On the other hand, and although none of the Draft Proposals would affect Alaska at this time, GCI remains troubled by the Commission's apparent embrace of Incumbent Local Exchange Carriers ("ILECs") as the principal – and in one case, only – provider of universal service. Having not taken the steps necessary to define universal service, it would be impossible for the Commission to determine at the front end that the ILEC is the presumptive, if not only, supported carrier. First, the Commission should define the services that carriers must provide and the maximum price for those services. It is insufficient to simply state that carriers must provide voice and broadband service. The Commission must define and incorporate the concepts of affordability, sufficiency, and reasonable comparability. Second, none of the Draft Proposals adequately explains the Commission's desire to limit (or eliminate) Eligible Telecommunications Carrier ("ETC") competition and its seeming presumption that the ILEC is the best universal service provider. The Commission's unsupported presumptions about the merits of competition are especially striking with regard to broadband (even full-duplex broadband), which many competitive providers already offer without any universal support whatsoever.

Finally, in the event that the Commission tentatively or presumptively classifies interconnect VoIP as an information service, it should make clear that even where a carrier uses IP technology to provide a common carrier service under state certification and pursuant to state regulation, that carrier should be presumed to be providing a telecommunications service, not an information service.

I. The Commission Should Clarify the Implementation of the Tribal Lands and Alaska Native Regions Exception to the May 2008 Interim CETC Cap.

The Commission correctly adopted an exception to the interim Competitive Eligible Telecommunications Carrier ("CETC") cap that accounts for the communications needs of the traditionally underserved populations of tribal lands and Alaska Native regions.[2] That policy has yet to be put into practice, however, and there is a "growing measure of consensus" that the Commission needs to clarify how the exception should be implemented.[3] The Commission should take this opportunity to make that clarification.

At this point, the most straightforward approach would be for the Commission, consistent with a recent letter from ACS, the Matanuska Telephone Association, and GCI to Chairman Martin,[4] to permit CETCs electing to participate in the exception to receive uncapped support for all lines. This unified solution would allow the tribal lands and

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[2] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al Petitions for Designations as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, WC Docket No. 05-337 and CC Docket No. 96-45, 23 FCC Rcd 8834, 8848-49 ¶¶ 32-33 (2008) ("*Interim Cap Order*").

[3] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, Joint Statement of Commissioners Michael J. Copps, Jonathan S. Adelstein, Deborah Taylor Tate and Robert M. McDowell, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket no. 06-122, CC Docket No. 99-200, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36 (rel. Nov. 5, 2008) ("Joint Statement"); *See also* Letter from ACS, GCI, and MTA, to Kevin J. Martin, Chairman, Federal Communications Commission at 1, CC Docket No. 96-45 and WT Docket No. 05-337 (filed Oct. 27. 2008).

[4] *Id*. at 1-2.

Alaska Native lands exception to the CETC cap to be implemented in Alaska without further changes to reporting forms. This could be accomplished by eliminating the final clause (italicized and stricken below) of the following sentence from paragraph 33 of the *Interim Cap Order*: "Support for competitive ETCs that do opt in to the limited exception will continue to be provided pursuant to section 54.307 of the Commission's rules~~*, except that the uncapped support is limited to one payment per each residential account*~~."[5]

It is important now that the Commission move forward to allow the tribal and Alaska Native lands exception to be implemented. In Alaska, ETCs that were supposed to be able to elect the Alaska Native lands exception have already seen their federal high-cost support reduced by ten percent as a result of the CETC cap. With Alaska excluded from other pending universal service changes, as it should be, failure to address these issues will simply lead to a *sub silentio* and legally infirm revocation of the tribal and Alaska Native lands exception.

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[5] Letter from John Nakahata, Counsel to General Communication, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 1-2, CC Docket No. 96-45, WC Docket No. 05-337, and WC Docket No. 04-36 (filed Oct. 28, 2008) ("GCI October 28, 2008 Ex Parte"). Alternatively, consistent with GCI's original proposal for a tribal lands exemption, Letter from Tina Pidgeon, Vice-President, Federal Regulatory Affairs, General Communication, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (filed May 31, 2007), the Commission could modify that same sentence by adding the italicized text below so that it that reads: "Support for competitive ETCs that do opt into the limited exception will continue to be provided pursuant to section 54.307 of the Commission's rules, except that, *with respect to residential lines*, the uncapped support is limited to one payment per each residential account." However, implementing this solution would require changes in forms that would need approval from the Office of Management and Budget.

II. The Draft Proposals Properly Exclude Alaska From the Intercarrier Compensation and Universal Service Distribution Reforms, but Should Include Alaska in the Lifeline Broadband Pilot Program.

Each of the Draft Proposals acknowledges that intercarrier compensation and universal service regimes that might work in the lower 48 states may not be appropriate for disparate areas of the country, including Alaska, that "have very different attributes and related cost issues than do the continental states."[6] Accordingly, GCI generally supports the proposed decision to exempt Alaska and other non-contiguous areas that have distinctive telecommunications environments from the intercarrier compensation and universal service distribution reforms.

As GCI has previously discussed in this proceeding, Alaska presents unique service needs and network architecture that must be considered in any future long-term reform efforts, whether in this or a separate proceeding.[7]

First, as the Joint Statement notes, any long-term reform must continue to recognize "the need for special consideration"[8] for tribal lands and Alaska Native regions.[9] Indeed, "[b]ecause many tribal lands have low penetration rates for basic telephone service," the Commission has stated that it does "not believe that competitive ETCs are merely providing complementary services in most tribal lands, as they do generally."[10] Thus, applied to Alaska, proposals to remove all universal service

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6 *ICC/USF FNPRM* Appendix A ¶¶ 13, 191; *Id*. Appendix B ¶ 13; *Id*. Appendix C ¶¶ 13, 194.

7 *See, e.g.*, Letter from Brita D. Strandberg, Counsel to General Communication, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission at 2, CC Docket No. 96-45 and WC Docket No. 05-337 (filed Oct. 3, 2008).

8 *See* Joint Statement at 1.

9 *Interim Cap Order* 23 FCC Rcd 8848 ¶ 32.

10 *Id*.

distribution from CETCs,[11] for example, would be disproportionately devastating to underserved populations.

Second, because Alaska was never served by a Bell Company, its networks evolved around local calling areas rather than local access and transport areas ("LATAs"). Accordingly, LATA-based rules cannot be sensibly imposed on Alaska carriers. In Alaska, local calls are those within a local calling area, while long distance (or toll) calls are between local calling areas. There also are no tandems in Alaska, as the Regulatory Commission of Alaska has maintained a strong state policy against tandems – which has increased competition in the market for transport to end offices. As a result, any rules for Alaska governing points of interconnection must apply on a local-calling-area basis, as the Intercarrier Compensation Forum has proposed.[12] By the same token, CMRS compensation in Alaska has been a difficult and contentious issue in large part because Alaska is a single Major Trading Area.

Third, interexchange carriers, rather than local exchange carriers, provide transport between local calling areas within Alaska. This can occur even between two communities served by the same LEC, as communities may not be linked by roads, rail, or other terrestrial links, but only via satellite. At least two providers, GCI and Alascom, offer long-haul transport between local calling areas on a competitive basis, outside of the access regime, and without subsidy. Imposing a tandem-based architecture, such that interexchange carriers delivered traffic to a single point from where the LEC in turn distributed that traffic to outlying communities, would serve only to convert the inter-

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[11] *See, e.g.*, *ICC/USF FNPRM* Appendix C ¶ 52.

[12] Intercarrier Compensation Forum Comments, Appendix D at 169, CC Docket No. 01-92 (filed May 23, 2005) (noting application of certain proposed rules "in a non-LATA state" to "local calling area[s]").

community transport into a monopoly market – subsidized either through USF or access pooling. The Commission should not interfere with a functioning market by imposing unnecessary regulatory structures.

Fourth, the rates for interstate switched wholesale service elements for transport from the continental United States to Alaska, including switching and transport for bush and non-bush areas, are set by statute at Tariff 11 levels (reduced by 3% annually).[13] Thus, these are under a different statutory regime than interstate access in the lower 48.

Finally, the Commission should not adopt reforms that undo voluntary industry arrangements. GCI has several interconnection agreements that provide for bill-and-keep for traffic subject to reciprocal compensation. Any long-term intercarrier compensation reform that undoes such voluntary agreements would create confusion and upset settled commercial expectations. For this reason, at the expiration of any existing agreements, the Sections 251 and 252 process should be followed for any replacement agreement, including those where default intercarrier compensation rules might otherwise apply.

While Alaska's unique challenges warrant separate treatment with regard to intercarrier compensation and universal service distribution reform generally, there is no reason for the Commission to exclude low-income Alaskans from the proposed Lifeline Broadband Pilot Program. The program is a worthy idea and recognizes that many households do not subscribe to broadband service for the sole reason that it is not affordable.[14] The Commission should allow the benefits of the pilot program to inure to

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[13] Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Division J, § 112, 118 Stat. 2809, 3345 (2004).

[14] *See, e.g.*, John B. Horrigan, Home Broadband Adoption 2008: Adoption Stalls for Low-Income Americans Even as Many Broadband Users Opt for Premium Services

those low-income residents in Alaska, many of which live in the most remote areas of the country and thus would benefit most from the ability to connect to the rest of the world through affordable broadband service.

III. The Proposed Changes to Universal Service Distribution in the Lower 48 States Fail Adequately to Define the Outcomes Sought to Be Achieved, or to Justify Why Competition Should Be Sacrificed and ILECs Preferred.

As GCI has said for years,[15] and as the Government Accountability Office ("GAO") underscored in its report this summer,[16] any reform of universal service distribution must *start* by defining the measurable outcomes that the Commission seeks to achieve, including key statutory terms such as "reasonably comparable," "sufficient," and "affordable." Without such definitions, it is impossible to determine if the program is working or whether support is sufficient, excessive, or deficient to achieve the program's goals.

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11 (Pew Research Center Publications, July 2, 2008) (reporting that 35% of dial-up users would switch to broadband if it was more affordable).

[15] *See, e.g.*, Comments of General Communication, Inc. at 10-13, WC Docket No. 05-195 (filed Oct. 18, 2005) ("GCI October 2005 USF Reform Comments"); Comments of General Communication, Inc. at 25-30,WC Docket No. 05-337 and CC Docket No. 96-45 (filed Apr. 17, 2008) ("GCI April 2008 USF Reform Comments"); *See also*, *e.g*., Office of Management and Budget, Universal Service Fund High Cost Program Assessment, 2005, http://www.whitehouse.gov/omb/expectmore/summary/10004451.2005.html (finding that the high-cost fund "lacks measures and goals to assess performance" and, further, that "the program does not measure the impact of funds on telephone subscribership in rural areas or other potential measures of program success, nor does it base funding decisions on measureable benefits").

[16] United States Government Accountability Office, Report to Congressional Committees, Telecommunications, FCC Needs to Improve Performance Management and Strengthen Oversight of the High-Cost Program 25-27 (June 2008) (finding that "[i]n the absence of program goals and data pertaining to the program's performance, the Congress and FCC may be limited in their ability to make informed decisions about the future of the program" and further noting the Commission's inadequate definition of the term "reasonably comparable").

Rather than define measurable outcomes, however, the Draft Proposals wrong-headedly seek to limit the growth of the high-cost fund by reducing or eliminating competition in favor of the incumbent provider. Appendix C, for example, proposes to eliminate CETC support entirely.[17] Appendix B proposes to award all support in a given service area to a single reverse auction winner, and should an auction produce no winning bidder, Appendix B proposes to provide all universal support to the ILEC while the Commission determines what further action is required.[18] Appendix A contemplates providing universal support to more than one ETC, but places artificial constraints on CETC support that do not exist for ILEC support (such as excluding spectrum acquisition costs and determining per-line costs based on ILEC line counts, which have no relation to actual ETC line counts, instead of on a reasonable projection of ETC line counts).[19] Moreover, these anti-competitive, pro-ILEC proposals presuppose that the ILEC's technology and service are best for customers, which runs afoul of the Commission's commitment to technological neutrality.

None of the Draft Proposals evaluates whether these actions would achieve the statutory objectives and commands. The Draft Proposals – particularly Appendix C – take a wholly uncritical look at ILEC high-cost support. Appendix C appears to operate under the assumption that all CETC support is bad and all rural rate-of-return ILEC support is good. The world is not so black and white. The Draft Proposals also assume, without any support, justification, or analysis, that ILECs are the preferred means of

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[17] *ICC/USF FNPRM* Appendix C ¶ 52.

[18] *Id*. Appendix B ¶ 29-31.

[19] *Id*. Appendix A ¶ 53. *Cf.* 47 C.F.R. § 61.38(b)(2) (allowing carriers that file a tariff for a "new service" to use forward-looking projections to estimate costs and the effect of the new service on traffic and revenues).

delivering universal service. While ILECs may be the most efficient and cost-effective providers in some cases, it is certainly not true in all cases and the Commission should not foreclose the possibility that CETCs can offer better, more affordable service to high-cost areas.

As already detailed in this proceeding,[20] GCI's experience in Alaska illustrates how CETCs can use universal service support to bring advanced and modern telecommunications services to even the most remote areas of the nation. GCI is in the midst of rolling out a local service platform that will deliver not only statewide fixed and mobile wireless services but also advanced, broadband Internet service. In the urban areas of Alaska (Anchorage, Fairbanks, Juneau, and their suburbs, such as the Matanuska Valley) and in many regional centers, GCI has upgraded its cable plant and is providing fixed telephone service predominantly over its own cable facilities, supplemented by resold services where necessary. GCI will also offer mobile services in these areas over its own facilities. Moreover, when GCI's statewide rollout (including the wireless component) is complete, GCI will have deployed advanced mobile voice and broadband service in over 185 rural Alaska communities – approximately 145 of which service under 200 total lines and 80 or more of which service under 100 lines. The transformational nature of GCI's rural wireless and other statewide wireless deployments (not to mention prior and planned wireline deployments and upgrades) are even more dramatic with respect to the availability of wireless and broadband services in many communities for the first time. And because GCI is using software-defined radios, these broadband speeds will be more easily upgradable as technology advances.

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[20] *See, e.g.*, GCI April 2008 USF Reform Comments.

GCI's rural wireless deployment will also provide a long-term engine for continued innovation and enhancement of universal service in remote rural communities. In all areas, GCI will offer services that fully substitute for – not merely complement – those available from the ILEC. Accordingly, GCI's deployment will bring vigorous competition for customers between GCI and the ILEC, which in turn will provide a market-based mechanism to ensure that rural Alaska receives access to the same advanced telecommunications services that are available in Alaska's urban centers and in the lower 48 states. Both GCI and its competitors will have to continually work to upgrade their services to provide the most modern capabilities to rural Alaskans.

GCI's experience and efforts demonstrate why USF reform must allow and, indeed, encourage the kind of innovation and expansion upon which GCI has embarked. Competition among ETCs in rural areas inevitably forces all carriers to improve service quality, thus benefitting consumers – and in some cases, it is only the presence of a CETC that ensures comparable services are available to rural consumers. GCI's deployment is at the core of what universal service is, and what it should be, about. Any reform that would stunt this sort of innovation, by limiting technologies or competition, will harm the underserved communities that the universal service fund was designed to help.

Unfortunately, each of the Draft Proposals heads exactly in the wrong direction. Rather than address fundamental reform, the Draft Proposals simply seek to reduce the growth of the high-cost fund by reducing or eliminating competition. As GCI and others have stated, the Commission must define the services to be provided, both in functional terms and in terms of the specific affordable and reasonably comparable price that

consumers in high-cost areas should pay. While each of the Draft Proposals correctly requires USF recipients to provide broadband, and provides some definition of the expected throughput speeds[21] – thus ensuring that the existing high-cost support funds work harder – the Draft Proposals fail to identify the affordable and reasonably comparable rate for supported broadband services. Moreover, universal support reform regarding broadband should not focus on the underlying technology, but instead should define outcomes and allow the market in a given service area to dictate the most efficient technology. Wireless broadband, for example, has advantages for rural deployment. GCI is implementing an upgradable, software defined radio-based technology that will allow speeds to evolve as technology evolves. GCI provides an example of just one approach to providing full-duplex broadband in rural areas, and the Commission should not foreclose such new and innovative approaches.

Similarly, the Commission should not provide subsidies to ILECs for broadband service where full-duplex broadband is already available from unsubsidized sources. If support needs to be disaggregated and targeted, the Commission should do so rather than supporting ILEC services that compete with non-subsidized services without explaining how unnecessary subsidies meet the statutory requirement of sufficiency.[22]

While the Draft Proposals at least define expected broadband throughput speeds, none attempts to define the supported voice services with respect to the affordable and reasonably comparable price of the service to be offered, and thus each fails to provide a method for assessing the sufficiency of support. Simply concluding that universal service

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[21] *ICC/USF FNPRM* Appendix A ¶¶ 25, 28; *Id*. Appendix C ¶¶ 25-31.

[22] *See, e.g.*, *Alenco Commc'ns, Inc. v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000) (finding that "excessive funding may itself violate the sufficiency requirements").

fund recipients should charge ILEC rates is no reform at all, because there is no indication that ILEC rates produce an efficient use of universal service dollars. Similarly, the proposal in Appendix A to move to an "own costs" mechanism would obliterate competitive neutrality and would significantly blunt the ability of the market to drive cost-effective delivery of universal service. GCI has llustrated the fallacy of an "own costs" regime several times.[23]

IV. The Commission Should Make Clear that State-Certificated LECs Using IP to Provide Tariffed Services Remain Telecommunications Carriers.

Finally, Appendices A and C would declare that all IP-PSTN interconnected VoIP services are "information services" because of a net protocol conversion.[24] Although that may be the correct approach generally – GCI takes no position on the classification of other providers' services – in some limited instances, it is wrong.

In general, classification of a service as either a telecommunication or an information service is very fact specific, and blanket classifications are difficult. Indeed, despite the general classification of interconnected VoIP services here, Appendices A and C recognize that a "protocol conversion in connection with the introduction of a new technology to implement existing services" is not enhanced, but rather "basic."[25] Thus, when a state-certified telecommunications carrier uses IP to provide its state-certificated

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[23] *See, e.g.*, Comments of General Communication, Inc., WC Docket No. 05-337 (filed Oct. 10, 2006); Comments of General Communication, Inc., CC Docket No. 96-45 and WC Docket No. 05-337 (filed Mar. 27, 2006); Reply Comments of General Communication, Inc., CC Docket No. 96-45 and WC Docket No. 05-337 (filed May 26, 2006); GCI October 2005 USF Reform Comments.

[24] *ICC/USF FNPRM* Appendix A ¶ 209; *Id*. Appendix C ¶ 204.

[25] *Id*. Appendix A ¶ 210; *Id*. Appendix C ¶ 205.

services, *e.g.*, under state tariffs, the carrier is providing existing telecommunications services simply through use of a new technology.

GCI's services are illustrative. In Anchorage, Fairbanks, and Juneau, GCI has provided telecommunications services under tariff using a combination of its own copper and fiber facilities, UNEs, and resale. More recently, GCI has also started offering the exact same tariffed services over its cable platform. And although GCI has expanded its services beyond Anchorage, Fairbanks, and Juneau, the fixed services in those areas are the same tariffed services that GCI has offered previously. Accordingly, the Commission should at a minimum create a presumption that a carrier using IP technology to provide its service to end users under its state certificate does so as a telecommunications carrier offering a telecommunications service, and that any protocol conversion resulting from the use of IP technology does not reclassify the service as an information service.[26]

A strict, blanket classification of interconnected VoIP traffic as an information service could have unintended consequences on eligibility for universal service support of carriers that use a variety of network technologies to deliver common carrier services. For example, a rural incumbent carrier providing basic local service using wireless technology delivered via soft switch or a coaxial or fiber network could find its universal support in jeopardy. GCI recognizes that the Commission may not intend to establish this classification for any purpose other than intercarrier compensation rules, but such a classification must be done clearly and without affecting the legal interpretation and

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[26] *See, e.g.*, *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21957–58, ¶ 106 (1996) (noting that some protocol conversions do not result in reclassification of basic services as enhanced services).

application of statutory definitions in other parts of the Act. GCI has previously suggested possible approaches to make clear that a provider that obtains state certification as a local exchange carrier can continue to be treated as a telecommunications carrier for these services.[27]

[27] GCI October 28, 2008 Ex Parte at 3.

Conclusion

While GCI appreciates the Commission's recognition of Alaska's distinct market structure and communications history, and generally supports the exclusion of Alaska from the proposed intercarrier compensation and USF distribution reforms, GCI also urges the Commission to clarify the implementation of the existing tribal lands and Alaska Native regions exception to the interim cap. More fundamentally, GCI again implores the Commission to define and incorporate the concepts of affordability, sufficiency, and reasonable comparability into long-term universal service reform and to resist the temptation to restrict marketplace competition as a quick fix to the growth of the high-cost fund. Finally, the Commission should clarify that any protocol conversion resulting from a telecommunications carrier using IP technology to provide basic telecommunications service under state certification and pursuant to state regulation should be presumed not to result in a reclassification as an information service.

Respectfully submitted,

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