

**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
)	

COMMENTS OF GENERAL COMMUNICATION, INC.

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Introduction

General Communication, Inc. (“GCI”) files these comments to address questions of statutory interpretation raised by this Further Notice of Proposed Rulemaking (“*High-Cost FNPRM*”) that extend beyond the non-rural high-cost model support mechanism specifically addressed in this proceeding. As GCI has previously commented, it receives no High-Cost Model (“HCM”) support. In fact, the only non-rural study area in Alaska is the ACS of Anchorage study area, which today receives no non-rural high-cost support.¹ Anchorage-based facilities and network components are nonetheless essential parts of providing service to the state’s rural areas.

This *High-Cost FNPRM* once again raises the question of what is meant by the Section 254(b) principles of “reasonably comparable” services available at “reasonably comparable” rates, “affordability,” and “sufficiency” of support.² As GCI has also stated in past comments, none of these statutory terms can be properly interpreted and applied without the Federal Communications Commission (“Commission”) adopting and defining the specific outcomes – *i.e.* the services that will be available in the marketplace – which it is seeking to promote.³

The Commission has also recognized that the measures required to ensure the availability of reasonably comparable services at reasonably comparable and affordable

¹ See USAC Appendix HC-01 (First Quarter 2010). The ACS Anchorage study area receives only Interstate Common Line Support.

² 47 U.S.C. § 254(b).

³ Comments of General Communication, Inc., CC Docket No. 96-45 and WC Docket No. 05-337 (filed May 8, 2009) (“GCI High-Cost NOI Comments”).

rates may vary in differing areas.⁴ This is generally the case for tribal lands, where telecommunications networks are under-deployed, and which typically require greater support than areas that have not been chronically under-deployed.

I. The Commission Must Focus on the Availability of Reasonably Comparable Services, as Well as on Reasonably Comparable Rates.

Section 254(b)(3) provides that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar services in urban areas.”⁵ This statutory goal encompasses not only voice-grade access to the public switched telephone network (“PSTN”), which is the basic level of service supported by the Federal Universal Service Fund (“USF”), but also includes advanced telecommunications and information services more broadly.⁶

The Commission needs to examine the reasonable comparability of all services when defining the desired outcomes that it seeks to accomplish through its USF mechanisms, including the non-rural high-cost mechanism that is the subject of this *High-Cost FNPRM*. Achieving reasonably comparable services is critical to the

⁴ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 24 FCC Rcd 3369 (Rel. March 9, 2009).

⁵ 47 U.S.C. § 254(b)(3).

⁶ 47 C.F.R. 54.101.

Commission's statutory mandate, and is a necessary component of determining whether support is sufficient to provide those services.

It is clear that Alaskans, for instance, do not have access to services that are reasonably comparable to those provided in urban areas in other parts of the country. For instance, before GCI began to build the first statewide wireless network (with substantial universal service support), Alaskans did not have access to a digital Commercial Mobile Radio Service ("CMRS") network that would allow them to roam freely across the vast majority of their state, as well as to other parts of the United States and the world.

In fact, until recently, wireless subscribers generally could not roam from a small village to a regional center, and then to Anchorage, Fairbanks, or Juneau. Pockets of rural wireless connectivity typically did not interconnect statewide. The inability of a subscriber to maintain connectivity when travelling to a village or from a village to a regional or urban center reduces both productivity and the ability to communicate with individuals back home. In addition, in areas outside of Alaska's relatively limited road network, rural Alaskans generally do not have access to broadband services with throughput to the Internet that exceeds 256 kbps. This lack of connectivity stands in stark contrast to the services provided in urban areas in other parts of the country.

Accordingly, irrespective of the *rates* that are offered for wireline voice services, the Commission must determine whether reasonably comparable *services*, including mobile and broadband services, are actually available when developing its universal service mechanisms. In areas without modern mobile and broadband services, consumers do not have congressionally mandated "access to telecommunications and information services, including interexchange services and advanced telecommunications and

information services, that are reasonably comparable to those services provided in urban areas.”⁷

II. Assessing Reasonable Comparability, Affordability, and Sufficiency All Require Establishing Specific Outcomes Sought to be Achieved.

Section 254(b) sets forth six specific principles that focus on one core objective – access to quality services, including advanced telecommunications and information services, in all regions of the country, at rates that are affordable and “reasonably comparable to rates charged for similar services in urban areas.”⁸ To ensure that this objective is fulfilled, Section 254(b), (d), and (e) require “specific, predictable and sufficient” support mechanisms supported by equitable and non-discriminatory contributions of all providers of telecommunications services.⁹ Although the Commission long ago defined the voice services that it would support, it has never concretely defined what rates are considered to be “affordable” and “reasonably comparable” and, thus, remains unable to determine whether support is “sufficient.” As GCI has previously commented in greater detail, the Commission must define these key statutory terms, and should do so in ways that are measurable and that permit transparent assessment of specific outcomes.¹⁰

The Commission itself has recognized the need for “the implementation of *meaningful performance measures*,” and that “[c]learly articulated goals and reliable

⁷ 47 U.S.C. § 254(b)(3).

⁸ 47 U.S.C. § 254(b)(1)-(3), (6).

⁹ 47 U.S.C. § 254(b)(4)-(5).

¹⁰ GCI High-Cost NOI Comments.

performance data allow the Commission and other stakeholders to assess the effectiveness of the USF programs and to determine whether changes are needed.”¹¹ Such goals must be defined to assess the current program and any reform measures.

The only way logically to define the key statutory terms contained in Section 254 is according to the outcomes produced in the marketplace, including rate levels, supported services, and service quality. Section 254’s key statutory terms of “affordability” and “reasonable comparability” refer to outcomes, and not inputs. Sufficiency, too, can only be assessed according to the specific outcomes sought. The NPRM in places essentially recognizes the need to focus on outcomes. For example, in the section in which the Commission inquires about whether it should examine comparability based on both local and long distance rates, its focus is on the outcomes in the market – the combined rates for local and long distance services, the availability of nationwide service packages and the impact on low-volume consumers – rather than, for example, the combined costs of local and long distance services in those areas.¹²

Therefore, the Commission must define what it means for rates in high-cost and urban areas to be “reasonably comparable.” Likewise, the Commission needs to define what constitutes “affordable” rates – with a particular focus on those consumers that are

¹¹ *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link-Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, 11318–19 (¶ 24) (June 14, 2005) (emphasis added).

¹² *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, 2009 FCC Lexis 6475 (¶¶ 17-20) (Rel. December 15, 2009).

not separately eligible for universal service Lifeline support. It may be true that all reasonably comparable rates will be affordable, but it may not. Moreover, defining affordability allows policymakers to assess the levels of rate changes that can occur without jeopardizing universal service goals.

Only after defining both “reasonable comparability” and “affordability” will it be possible to determine whether support is “sufficient” to achieve universal service purposes. Of course, “sufficiency” must also reflect Section 254’s service availability goals. As the Commission has correctly recognized in adopting targeted universal service rules for tribal lands and Alaska Native Regions, there are areas of the country that need unique universal service assistance to ensure service availability, as well as affordability and reasonable comparability of rates. Finally, as the Commission has previously acknowledged, both insufficient and excessive support can violate the principle of sufficiency.¹³ The Commission will need to collect data to assess whether goals have been reached in any given area, and whether support is sufficient.

III. Competition Cannot Be Divorced from Ensuring Sufficient Support for the Availability of Reasonably Comparable Services at Reasonably Comparable Rates.

GCI’s rural Alaska wireless deployment demonstrates that competition and availability of support to a Competitive Eligible Telecommunications Carrier (“CETC”) – even one that is a later entrant in some parts of the market – is critical to ensuring that there are reasonably comparable services.

¹³ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Inquiry ¶ 20 (Rel. April 8, 2009); *Alenco Communications Inc. v. Fed. Communications Comm’n*, 201 F.3d at 620 (5th Cir. 2000) (“excessive funding may itself violate the sufficiency requirements of the [1996] Act”).

Although there are 20 other Eligible Telecommunications Carriers (“ETCs”) in Alaska (counting all affiliated ETCs as a single carrier), including both Incumbent Local Exchange Carriers (“ILECs”)-affiliated ETCs and those that are not, GCI is the only ETC attempting to deploy a seamless statewide wireless network, where statewide wireless communication was previously unavailable. It is important to note that universal service is supporting GCI wireless service not just in the populated urban centers, but also in very small villages. All of Alaska's communities are small by national standards, with Anchorage – the largest community at a population of 365,000 people – ranking 137th nationwide; Fairbanks (population 98,000), 344th; and Juneau (population 39,000), 816th out of the 953 metropolitan and micropolitan statistical areas.¹⁴ When GCI's wireless rollout is complete, GCI will have deployed advanced mobile voice service in nearly 200 rural Alaska communities – the large majority of which are under 200 total lines and many of which are under 100 lines. The vast majority of these communities will have mobile wireless service for the first time, and even among the communities that currently have some form of wireless service, GCI's rural deployment will allow consumers to roam automatically to Alaska's urban centers and to the rest of the United States and the world, which few can do today.

¹⁴ Office of Management and Budget, Executive Office of the President, OMB Bull. No. 09-01, Update of Statistical Area Definitions and Guidance on Their Uses (2008), *available at* <http://www.whitehouse.gov/OMB/bulletins/fy2009/09-01.pdf> (listing, but not ranking, the metropolitan and micropolitan statistical areas) (“OMB Bull. No. 09-01”); *see also* U.S. Census Bureau, Cumulative Estimates of Population Change for Metropolitan and Statistical Areas and Rankings: April 1, 2000 to July 1, 2008, <http://www.census.gov/popest/metro/CBSA-est2008-pop-chg.html> (“Census Metropolitan Rankings”); Cumulative Estimates of Population Change for Micropolitan Statistical Areas and Rankings: April 1, 2000 to July 1, 2008, <http://www.census.gov/popest/metro/CBSA-est2008-pop-chg.html> (“Census Micropolitan Rankings”).

GCI cannot overstate the significance of these ongoing changes in the lives of rural Alaskans – changes that are possible only because the universal service system has remained open to entry and choice. Indeed, a GCI Field Maintenance Group technician shared a recent story about the significance of GCI’s rural wireless service and the importance that CETCs play in delivering life-saving telecommunications services:

I thought you would enjoy the picture attached, taken yesterday, December 1, as I made a 60-mile swing on the snowmachine trail checking out RW (rural wireless) equipment issues in “The Tundra Villages,” i.e., Atmautluak, Nunapitchuk and Kasigluk. About five miles out of Atmautluak heading back to Bethel I stopped when I came across these young GCI customers who had a broken chain drive in the middle of a frozen lake. In the old days this would have been a real emergency, but the young man told me, “No problem.” He had just used his GCI cell phone to call his dad to come give them a tow back to their house. When I snapped the picture he was on the line with his parts supplier, ordering a new drive chain so he could pick up parts in Kasigluk and hopefully fix the machine same day. The terrain in the middle of the frozen lake was flat enough that standing on the seat gave him the height he needed to complete a call. (The bushes in the picture are actually trail markers planted by Atmautluak Search and Rescue). These young people acted like it was no big deal at all. It seems that all of us in the GCI Rural Wireless projects have ushered in a paradigm shift for Bush Alaska. I stayed until their tow arrived; their dad was also a GCI Rural Wireless believer, of course.



Photograph by Don Picazo.

To be cost-effective, GCI's network must serve not only such rural un-built or just-being-built areas, but also the urban centers. The infrastructure for GCI's rural wireless service depends on the core network in Anchorage to provide critical functions such as the Home Location Register ("HLR"). The cost of placing core network functions in each community would be prohibitive. Thus, a universal service system that focuses – as it must – on the availability of reasonably comparable services in rural areas must recognize that the carriers serving the rural areas also need to serve the urban areas to obtain the necessary scale to serve all areas cost effectively.

Limiting CETC support to a single CETC could thus substantially harm rural network deployment. Anchorage, for example, is served by at least four wireless CETCs – ACS Wireless, AT&T Wireless, GCI (including the former Alaska Digitel), and MTA

Wireless. A regime in which the Commission allowed only a single wireless CETC would force GCI (if not selected as the CETC) to compete in the urban areas with a subsidized competitor. The Commission has already recognized that such a task would be extremely difficult, if not impossible. As the Commission has previously stated:

A new entrant faces a substantial barrier to entry if its main competitor is receiving substantial support . . . that is not available to the new entrant. A mechanism that makes only ILECs eligible for explicit support would effectively lower the price of ILEC-provided service relative to competitor-provided service by an amount equivalent to the amount of the support provided to ILECs that was not available to their competitors. Thus, non-ILECs would be left with two choices -- match the ILEC's price charged to the customer, even if it means serving the customer at a loss, or offer the service to the customer at a less attractive price based on the unsubsidized cost of providing such service. A mechanism that provides support to ILECs while denying funds to eligible prospective competitors thus may give customers a strong incentive to choose service from ILECs rather than competitors. Further, we believe that it is unreasonable to expect an unsupported carrier to enter a high-cost market and provide a service that its competitor already provides at a substantially supported price.¹⁵

This reasoning is equally applicable to competition between CETCs. Indeed, had USF support not been success-based and open to new entrants, GCI as a wireless provider would not have been able to compete on a level playing field across the urban or rural parts of Alaska. Without the ability to build a statewide network, rural Alaska would remain isolated and without access to modern wireless service that can roam statewide and nationwide. The competitive availability of ETC support is thus critical to ensuring sufficient support for the delivery of affordable, reasonably comparable services to rural areas.

¹⁵ *Western Wireless Corporation Petition for Preemption of Statutes and Rules Regarding the Kansas State Universal Service Fund Pursuant to Section 253 of the Communications Act of 1934*, Memorandum Opinion and Order, 15 FCC Rcd 16227, 16231 n.8 (2000) ("Western Wireless Order").

Conclusion

As it considers the requirements of Section 254 in this *High-Cost FNPRM* and related proceedings, the Commission must focus on the availability of reasonably comparable services, in addition to reasonably comparable rates. The Commission must also adopt and define the specific outcomes that it is seeking so that it can properly interpret and apply the statutory terms in Section 254. Finally, the Commission must ensure that competition is used to achieve the universal availability of reasonably comparable services at reasonably comparable rates.

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