



December 19, 2011

Ex Parte

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

Re: *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Lifeline and Link Up Reform and Modernization*, WC Docket 11-42

Dear Ms. Dortch:

On December 15, 2011, Megan Delany, Chris Nierman, and Tina Pidgeon of General Communication Inc. (“GCI”), and I, on behalf of GCI, met with the following:

- Zachary Katz, Chief Counsel and Senior Legal Advisor to Chairman Genachowski
- Sharon Gillett, Chief of the Wireline Competition Bureau (“WCB”)
- Carol Matthey, Deputy Chief of the WCB
- Patrick Halley, Legal Advisor to the Bureau Chief
- Trent Harkrader, Chief, Telecommunications Access Policy Division (“TAPD”), WCB
- Kim Scardino, Attorney Advisor, TAPD-WCB

I also spoke with Randy Clarke of the Wireline Competition Bureau regarding the two aspects of the intercarrier compensation transition in Alaska that are summarized below.

Remote Alaska CETC Interim Mechanism. During this conversation, we presented to Mr. Katz GCI’s concerns regarding the rules implementing the remote Alaska CETC interim mechanism, all of which undercut the Commission’s intent to “preserve newly initiated services and facilitate additional deployment in still unserved and underserved areas.”¹

First, as set forth in GCI’s ex parte letter of December 12, 2011,² the rules do not include all remote Alaska providers within the remote Alaska mechanism. As a result one remote Alaska

¹ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ¶ 529 (rel. Nov. 18, 2011) (“CAF Order”).

² Letter from John T. Nakahata, Counsel to General Communication Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 07-135, 05-337 and 03-109, CC Docket Nos. 01-92 and 96-45, GN Docket No. 09-51 (filed December 12, 2011)(“December 12, 2011 Ex Parte”).

provider can lose lines without losing support, while the support to all other remote Alaska providers is dependent on actual lines served, consistent with the intent and language of the remote Alaska proposals and mechanisms. In this particular case, the mere fact of movement of lines from an “excluded” CETC to an “included” CETC will dilute support for all other included lines, without any actual change in the number of lines served in remote Alaska. This not only distorts competition, but also reduces the incentives for new investment in service to unserved and underserved remote Alaska areas.

Second, calculating the remote Alaska cap based on 2011 high cost disbursements, which are based on 2010 lines served, fails to fully reflect the new deployments to 35 remote Alaska villages that occurred in the spring and summer of 2010 and 2011.

Third, setting the per study area support amounts six months before the start of the CETC support phase-down, based on calendar year 2013 disbursements, arbitrarily provides little incentive to deploy new services or add new lines in still unserved and underserved areas after the fourth quarter of 2012. (Lines added after the fourth quarter of 2012 will not affect calendar year 2013 disbursements.) Each of these concerns is addressed more fully in GCI’s December 12, 2011 ex parte, incorporated by reference herein.

GCI has suggested rule changes to address these concerns in its December 12, 2011 ex parte. It is important that the rules implementing the remote Alaska mechanism be addressed immediately, but in no event later than the end of the first quarter 2012 (retroactive to January 1, 2012), in order to permit CETCs serving remote Alaska to finalize their summer construction plans, given remote Alaska’s extremely limited construction season.

Low-Income Rulemaking. We also discussed GCI’s concerns with respect to the pending low income rulemaking, previously summarized in GCI’s ex parte of November 23, 2011, incorporated by reference herein.³ For remote Alaska, limiting Lifeline eligibility to one-per-household, rather than one per eligible adult, raises real public safety issues. A Lifeline-eligible individual in remote Alaska is much more likely to need his or her own mobile telephone to summon assistance than in urban areas, where passers-by are likely to be more frequent. Given the thin public safety infrastructure in remote Alaska, these calls do not include just 911 calls, but also calls to family, friends, or neighbors for emergency assistance. In any event, the Commission should not restrict Lifeline eligibility to less than members of the same nuclear family. A broader restriction, such as residential address, would exclude many individuals who live in non-institutional group living arrangements, whether unrelated roommates, multiple families sharing the same residence, or extended or intergenerational family living arrangements. We provided the numbers set forth in GCI’s November 23, 2011 ex parte. We also raised concerns with annual recertification of Lifeline subscribers, which, as set forth in the November 23, 2011 ex parte, would be extremely disruptive and burdensome. We reiterated our proposal to recertify the entire subscriber base over three years.

Intercarrier Compensation Transition. With respect to the intercarrier compensation transition in Alaska, GCI raised two concerns. The first, related to the Commission’s new rules

³ Letter from John T. Nakahata, Counsel to General Communication Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 03-109, CC Docket No. 95-45 (filed November 23, 2011)(“November 23, 2011 Ex Parte”).

on intercarrier compensation for toll VoIP is time sensitive, as it could begin having an impact as of December 29, 2011, and thus is in need of immediate action.

A. Access reciprocal compensation rates for VoIP-PSTN traffic. Under new rule 47 C.F.R. § 51.913, all telecommunications traffic that “originates and/or terminates in IP format shall be subject to a rate equal to the relevant interstate access charges specified by this subpart.” While this rule makes sense in the majority case in which intrastate access rates exceed interstate access rates, this rule could have the peculiar result in Alaska of *increasing* access rate levels for intrastate toll traffic that originates and/or terminates in IP because, particularly outside of the ACS areas, interstate access rates exceed intrastate access rates, particularly for end office switching-related elements. The difference is significant, as the following chart shows:

Telephone Company	2011 Tariff Rates				
	NECA LS Band	Interstate total LS + IS per minute ⁴	Intrastate total LS + IS per minute	Amount interstate exceeds intrastate per minute	Interstate as a % of interstate
Adak	8	\$ 0.045396	\$ 0.027108	\$ 0.018288	167%
Alaska Telephone Company	8	\$ 0.045396	\$ 0.027108	\$ 0.018288	167%
Arctic Slope Telephone Assoc	8	\$ 0.045396	\$ -	\$ 0.045396	n.a.
Bristol Bay Telephone	7	\$ 0.040906	\$.027108	\$ 0.013798	151%
BushTel	8	\$ 0.045396	\$.027108	\$ 0.018288	167%
Copper Valley	6	\$ 0.036416	\$.004716	\$ 0.031700	772%
Cordova Telephone Coop	3	\$ 0.026703	\$ -	\$ 0.026703	n.a.
Interior Telephone Company	8	\$ 0.045396	\$ -	\$ 0.045396	n.a.
Ketchikan Public Utilities	6	\$ 0.036416	\$.025872	\$ 0.010544	141%
Matanuska Telephone Association	1	\$ 0.013964	\$.013820	\$ 0.000144	101%
Mukluk Telephone Company Inc.	8	\$ 0.045396	\$.014100	\$ 0.031296	322%
OTZ Telephone Cooperative Inc.	8	\$ 0.045396	\$.027108	\$ 0.018288	167%
Summit	8	\$ 0.045396	\$.027108	\$ 0.018288	167%
United Utilities	8	\$ 0.045396	\$.027108	\$ 0.018288	167%
Yukon Telephone Company Inc.	8	\$ 0.045396	\$.027108	\$ 0.018288	167%
ACS of Alaska Greatland	Not Applicable	\$ 0.006423	\$.002601	\$ 0.003822	247%

GCI has no objection to the Commission’s ruling that “toll” VoIP traffic should be subject to access charges. GCI’s practice has been to pay intrastate access with respect to intrastate toll traffic and interstate access with respect to interstate toll traffic, irrespective of whether the last

⁴ “LS” is local switching and “IS” is information surcharge.

mile from the switch to the customer's premises was IP or TDM⁵. However, 47 C.F.R. § 51.913 could *raise* the access rates for IP originated and/or terminated traffic, which would be contrary to all other elements of the access transition plan.

To prevent traffic that previously had been subject to lower intrastate access rates from being subject to high interstate access rates, the Commission could modify the first sentence of § 51.913(a) by adding the underlined text:

(a) Access Reciprocal Compensation subject to this subpart exchanged between a local exchange carrier and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format shall be subject to a rate equal to the relevant interstate access charges specified by this subpart, but in no event shall be higher than the Access Reciprocal Compensation rate applicable to traffic other than telecommunications traffic that originates and/or terminates in IP format.

By adding this language, intrastate toll VoIP-PSTN traffic would remain subject to the lower intrastate access rates where those rates are lower, while interstate toll VoIP-PSTN traffic would remain subject to interstate access rates.

Making this change would in no way undermine the Commission's legal rationale for its VoIP-PSTN access transition. Paragraph 956 cites Section 251(g) as permitting the Commission to adopt transitional intercarrier compensation rules for access traffic that had been "grandfathered" by Section 251(g).⁶ Nothing in that section requires that interstate access rates be used as transitional rates when those rates exceed intrastate access rates. The Commission did not declare all VoIP to be interstate traffic, but simply specified that during the transition, all toll VoIP-PSTN traffic would be subject to intercarrier compensation charges at interstate access rate levels. That specification can be altered to require intrastate access rate levels when those are lower than interstate, consistent with the Commission's objective of reaching an end result of bill-and-keep.

B. Harmonizing Access Rates. The access transition schedule as mapped in paragraph 801 and the associated provisions of 47 C.F.R. §§ 51.907, 51.909 and 51.911 also do not work where intrastate access rates are below interstate access rates for functionally equivalent elements. Paragraph 804 states that "in cases where a providers' interstate terminating access rates are higher than its intrastate terminating access rates, intrastate rate reductions shall begin to occur at the stage of the transition in which interstate rates come to parity with intrastate rate levels." The rate transition steps referenced in paragraph 804 apply only to terminating switched end office and reciprocal compensation rates, and not to intrastate terminating switched transport rates and originating and terminating dedicated switched transport rates. For carriers in all areas of the country in which intrastate switched access rates exceed interstate switched access rates, the rates for terminating switched transport and originating and terminating dedicated switched transport rates, as well as terminating switched end office and reciprocal compensation rates, are harmonized in the first two steps. For carriers in areas in which the intrastate switched access rates are below interstate switched access rates, rates for

⁵ GCI provides interstate services over both circuit-switched copper and cable telephony facilities and contributes to universal service based on the quarterly factor assessed on interstate retail revenues in accordance with the Commission's rules.

⁶ See *CAF Order*, ¶ 956.

Ms. Marlene H. Dortch

December 19, 2011

Page 5 of 5

terminating switched transport and originating and terminating dedicated switched transport are *never* harmonized (subject to any actions taken with respect to the Further Notice of Proposed Rulemaking), except to the extent that terminating switched transport rates are reduced to \$.0007 and bill-and-keep in steps 6 and 7, respectively, for price cap carriers. Even at that point, those reductions are limited to terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch, which will not occur in Alaska because no carrier owns or operates tandem switches.

The simplest way to address this problem would be, in the first two steps, to reduce intrastate terminating switched end office and transport rates, originating and terminating dedicated transport, and reciprocal compensation rates, if above the carrier's access rates, to the *lower of* the interstate or intrastate access rates.⁷ This would treat carriers in areas in which intrastate access rates are below interstate access comparably with all other carriers. GCI asks that this be addressed prior to the start of Step 1 of the access transition (*i.e.*, prior to July 1, 2012).

As above with respect to IP-PSTN toll VoIP traffic, making this change does not implicate the legal basis for the Commission's prescription of transitional access reciprocal compensation levels.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata
Counsel to General Communication Inc.

cc: Sharon Gillett
Carol Matthey
Amy Bender
Ted Burmeister
Joe Cavender
Randy Clarke
Patrick Halley
Al Lewis
Victoria Goldberg

⁷ See Letter from Tina M. Pidgeon, *et al.*, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 01-92, 05-337, 10-90 and 03-109, CC Docket No. 96-45, GN Docket No. 09-51, at 2 (point 2)(filed October 6, 2011).