

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

<i>In the Matter of</i>)	
)	
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

GENERAL COMMUNICATION, INC. PETITION FOR RECONSIDERATION

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GENERAL COMMUNICATION, INC. PETITION FOR RECONSIDERATION

INTRODUCTION AND SUMMARY

Pursuant to Section 1.429 of the Federal Communication Commission’s (“FCC” or “Commission”) rules,¹ General Communication, Inc. (“GCI”) files this petition for reconsideration of the Commission’s October 27, 2011, *Report and Order*, which sought to reform and modernize the universal service and intercarrier compensation systems (“*Order*”).² Specifically, GCI seeks reconsideration of the Commission’s:

¹ 47 C.F.R. § 1.429.

² *Connect America Fund; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Lifeline and Link-Up; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service;*

- 1) Requiring a downward transition from current high-cost support levels in Remote Alaska;
- 2) Setting the interim Remote Alaska cap amount based on calendar year 2011 Competitive Eligible Telecommunications Carrier (“CETC”) disbursements;
- 3) Excluding any CETC that did not certify that it was serving covered locations from the Remote Alaska cap calculation and from receiving support under the Remote Alaska mechanism;
- 4) Calculating any eventual CETC support transition for Remote Alaska in a way that unnecessarily truncates the incentive to invest, which the Remote Alaska mechanism was meant to preserve;
- 5) Potentially (and inexplicably) increasing the rates being paid for intrastate toll access for VoIP traffic when existing intrastate access rates are below existing interstate access rates;³
- 6) Failing at any time to unify terminating switched transport and dedicated originating and terminating transport rates, and (inexplicably) delaying harmonizing switched end office access and reciprocal compensation rates, when intrastate access and reciprocal compensation rates are below interstate rates;

A National Broadband Plan for Our Future; Universal Service Reform – Mobility Fund, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-208 (rel. Nov. 18, 2011) (“Order”).

³ GCI provided specific rule changes to address requests 2 through 5 in its December 12 and December 19, 2011, *ex parte* notices, and hereby incorporates by reference both filings in their entirety. *See Ex Parte* letter from John Nakahata, Wiltshire & Grannis, to Marlene Dortch, FCC, WC Docket Nos. 10-90 et al. (filed Dec. 12, 2011) (“Dec. 12, 2011 GCI Ex Parte”); *Ex Parte* letter from John Nakahata, Wiltshire & Grannis, to Marlene Dortch, FCC, WC Docket Nos. 10-90 et al. (filed Dec. 19, 2011) (“Dec. 19, 2011 GCI Ex Parte”).

- 7) Granting bidding credits in Mobility Fund Phase 1 for “Tribally-owned or controlled” entities rather than entities serving Tribal Lands; and
- 8) Failing to preclude use of Mobility Fund Phase 1 to overbuild middle mile facilities where such facilities are available and suitable to support broadband at the required speeds.

First and foremost, there was *no basis in the record* for the Commission’s implicit conclusion that support to Remote Alaska⁴ – or indeed, any part of Alaska – is currently excessive and thus should be phased out. There was no verifiable model that estimated the necessary costs to construct, operate and upgrade networks in Remote Alaska, nor are these areas today served by unsubsidized competitors. Instead, the *Order* conveniently assumes that any new support that may be provided through the Mobility Fund Phase II will be sufficient to sustain existing service in these areas. But the Mobility Fund Phase II is little more than an inchoate promise.

Similarly, the Remote Alaska mechanism has no possibility of fulfilling its stated purpose “to preserve newly initiated services and facilitate additional investment in still unserved and underserved areas during the national transition to the Mobility Funds,”⁵ absent the refinements sought herein. Simply put, without further Commission action, the Remote Alaska mechanism will not provide “sufficient” support, as required by Section 254, during the transition to the yet-to-be defined Mobility Funds.⁶

⁴ The *Order* defines “Remote Alaska” to include “all areas other than the study areas, or portions thereof, that include the three major cities in Alaska with over 30,000 in population, Anchorage, Juneau, and Fairbanks.” *Order*, ¶ 529, n. 876.

⁵ *Order*, ¶ 529.

⁶ *See* 47 U.S.C. § 254.

GCI respectfully requests that its petition for reconsideration be acted upon according to the following timeline:

- 1) The Commission should act by or as soon as possible after December 29, 2011, to make clear that intrastate toll VoIP traffic is not subject to rates that exceed current rates in the event that intrastate access rates are below interstate access rates;
- 2) The Commission should revise and correct the Remote Alaska CETC support rules by no later than the first quarter of 2012 so that CETCs serving Remote Alaska can finalize their summer construction plans in time to execute them during that very short season and determine whether to participate in Mobility Fund Phase I;
- 3) The Commission should, by no later than July 1, 2012, revise the access transition to harmonize interstate and intrastate access rates on the same schedule and to the same extent regardless of whether intrastate access rates are below or above interstate access rates; and
- 4) The Commission should address the Mobility Fund Phase 1 issues prior to accepting short-form applications to participate in competitive bidding for Mobility Fund Phase 1.

I. THE COMMISSION SHOULD NOT REQUIRE A DOWNWARD TRANSITION IN REMOTE ALASKA ABSENT RECORD EVIDENCE.

The Commission should *not* require a downward transition from current high-cost support levels in Remote Alaska because there is no evidence that the support to these areas is excessive. The record in this proceeding provides no basis for the Commission's implicit conclusions that Remote Alaska receives excessive Universal Service Fund ("USF") support and that scheduled reductions in Remote Alaska are necessary or reasonable. None of these areas today are served by unsubsidized competitors, and the Commission has no public model

available (even pursuant to protective order) that projects the costs of serving these areas.⁷ In fact, the record and the FCC’s own Mobile Wireless Competition Reports and National Broadband Map demonstrate that Alaska’s telecommunications infrastructure lags far behind the rest of the country, and that Alaska Native regions are served *only* by entities that receive high-cost support.⁸

No area of Alaska is served by unsubsidized competitors.⁹ Thus, there is no “market test” to suggest that unsupported operation is possible anywhere in Alaska. The Commission has produced no cost model for residential broadband or wireless services in Alaska, much less made any such cost model available for open examination and comment with respect to all assumptions and design parameters. Accordingly, the Commission lacks any rational basis for its decision to reduce support in areas where there are no unsubsidized competitors in Alaska. Dramatically reducing support before ascertaining viability risks significant service disruption, particularly when alternative support mechanisms are not substantially specified, let alone in place. Moreover, the Commission at present has no algorithm for selecting among multiple mobile CETCs seeking to receive Mobility Fund support for serving the same area. In areas

⁷ See also Ex Parte letter from John Nakahata, Wiltshire & Grannis, to Marlene Dortch, FCC, WC Docket Nos. 10-90 et al. (filed Oct. 18, 2011) (“Oct. 18, 2011 GCI Ex Parte”).

⁸ See also Ex Parte letter from Tina Pidgeon et al., General Communication, Inc. to Marlene H. Dortch, FCC, WC Docket Nos. 10-90 et al. (filed Oct. 6, 2011) (“Oct. 6, 2011 GCI Ex Parte”). See also Reply Comments of the Regulatory Commission of Alaska, WC Docket No. 10-90 et al. (filed Sept. 6, 2011); Comments of General Communication, Inc., WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Comments of the Alaska Rural Coalition, WC Docket No. 10-90 et al. (filed Aug. 29, 2011); Comments of GVNW Consulting, Inc., WC Docket No. 10-90 et al. (filed Aug. 24, 2011); Comments of the Native Telecom Coalition for Broadband, WC Docket No. 10-90 et al. (filed Aug. 24, 2011).

⁹ Sprint and Verizon do not have facilities in Alaska, and operate in Alaska only through roaming agreements.

such as Remote Alaska where there is no unsubsidized entity providing either residential broadband or mobile services, the Commission would be cutting support blindly.

The record shows that the cost of providing service in Alaska is very different than in the 48 contiguous states. For that reason, it is particularly important that the Commission be able to evaluate the effect of the Connect America Fund Phase II and Mobility Fund Phase II mechanisms before concluding that they will provide sufficient support. As virtually all Alaska commenters in this proceeding pointed out, the costs of serving Remote Alaska are likely to be dramatically higher than anywhere else in the country – yet the populations to be served are tiny. Compared to remote parts of the 48 contiguous states, voice and broadband services in Remote Alaska must traverse longer distances, frequently without roads or power infrastructure to support laying or operating the facilities. Supplies (including fuel for electric generators) must be brought in by airplane or barge, and dealing with the harsh Alaska climate increases costs as well.

It is thus arbitrary and irrational for the FCC to begin to phase down CETC support for Remote Alaska residential broadband or mobile services based only upon the hope that the Connect America Fund Phase II and Mobility Fund Phase II will deliver sufficient support to Remote Alaska. Before commencing cuts to Remote Alaska support, the Commission should review the results of its Mobility Fund and Connect America Fund mechanisms, as well as the impact of capped support, to determine whether they, in fact, would provide sufficient support for Remote Alaska.

II. THE COMMISSION SHOULD ESTABLISH THE REMOTE ALASKA INTERIM CETC CAP BASED ON CURRENT LINES AND SUPPORT AMOUNTS.

To fulfill the language and intent of the *Order* and to best “preserve newly initiated services and facilitate additional investment in still unserved and underserved areas,”¹⁰ the Commission should revise any rules capping support for Remote Alaska in a manner that recognizes that carriers have deployed service in new areas and added lines in 2010 and 2011, and base any cap on current line counts and current per-line support amounts. Specifically, as GCI had suggested in its October 23, 2011 *ex parte*,¹¹ the Commission should calculate the Remote Alaska cap by multiplying the number of lines reported on March 30, 2012 (reflecting lines served as of September 30, 2011) by the frozen December 31, 2011, per-line support rates, adjusted in amount for those lines served by CETCs that have not certified that they served covered locations under the 2008 *Interim Cap Order*.¹²

Under the Remote Alaska provisions in the *Order*, during most of the two-year delay, Remote Alaska would operate in much the same way as individual states did under the 2008 CETC cap. Remote Alaska CETC high cost support would be provided on a per-line basis using per-line support amounts frozen as of December 31, 2011 (up to a maximum of \$3000), subject to a cap across all of Remote Alaska.¹³ The new rules, however, initialize that cap based on

¹⁰ *Order*, ¶529.

¹¹ See *Ex Parte* letter from John Nakahata, Wiltshire & Grannis, to Marlene Dortch, FCC, at 1-2, WC Docket Nos. 10-90 et al. (filed Oct. 23, 2011) (“Oct. 23, 2011 GCI *Ex Parte*”).

¹² Oct. 23, 2011 GCI *Ex Parte* at 1-2. See also *High-Cost Universal Service Support Federal-State Joint Board on Universal Service; Alltel Comm’c’ns, Inc., et al. Petitions for Designation as Eligible Telecomms. Carriers; RCC Minnesota, Inc., and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, WC Docket No. 05-337; CC Docket No. 96-45, 32 (rel. May 1, 2008) (“*Interim Cap Order*”).

¹³ See *Order*, ¶ 529 n. 880.

calendar year 2011 disbursements to a subset of Alaska CETCs within the Remote Alaska areas.¹⁴

GCI appreciates that the Commission determined that “carriers serving remote parts of Alaska, including Alaska Native villages, should have a slower transition path in order to preserve newly initiated services and facilitate additional investment in still unserved and underserved areas during the national transition to the Mobility Funds.”¹⁵ As the Commission observed, many villages in Alaska still lack even basic 2G wireless service, let alone 3G or 4G services.¹⁶ While the changes to the high cost Fund will likely reduce the amount of new deployment that would have occurred in the absence of the new rules, a two-year delay in the start of the five year CETC phase-out may facilitate at least some deployment over the next two to three years.

The rules implementing the Remote Alaska CETC interim mechanism, however, are inconsistent with the language and intent of the *Order*, and would substantially undermine the Commission’s objectives with respect to Remote Alaska, undercutting the Commission’s intent to “preserve newly initiated services and facilitate additional investment in still unserved and underserved areas.”¹⁷ As written, the rules do not preserve funding for newly initiated services, but instead exclude an estimated \$4 to \$5 million of CETC high-cost support that was necessary to bring modern wireless service to many villages in Remote Alaska. This amount represents a reduction of support for Remote Alaska of approximately five percent.

¹⁴ Compare 47 CFR §§ 54.307(e)(1) and (3)(iii) (specifying use of total calendar year 2011 disbursements to a CETC) with Oct. 23, 2011 GCI Ex Parte at 1-2.

¹⁵ *Order*, ¶529.

¹⁶ *See id.*

¹⁷ *Id.*

The rules as drafted in the *Order* also set the Remote Alaska cap based on amounts *disbursed* in 2011.¹⁸ Because of the standard delays in the USAC process for reporting lines and paying support, disbursements in 2011 reflect lines served in 2010. As a result, the rules as drafted would set the Remote Alaska cap amount well below what current levels of service and investment would otherwise warrant. When all of the reporting and payment periods are taken into account, there is normally a 10-12 month lag between the time service is provided and the time support is received reflecting that service. Accordingly, the rules as written in effect cap Remote Alaska funding based on deployments as they existed more than a year ago, and fail to fully reflect the new deployments to 35 Remote Alaska villages that occurred in the spring and summer of 2010 and 2011.

Setting the Remote Alaska interim CETC cap using the line counts that will be filed in the ordinary course on March 31, 2012 would most accurately capture the line count for the most recent quarter completed prior to the adoption and release of the *Order*. Line counts filed March 31, 2012, will reflect lines served as of September 30, 2011, and thus will not reflect any post-*Order* changes in behavior or business practices. This method would therefore provide the most reliable basis, consistent with the purpose of the Remote Alaska mechanism, for initializing the Remote Alaska cap.

Proposed rule language to implement this change is attached as Appendix A.

III. THE COMMISSION SHOULD INCLUDE ALL CETCS IN THE REMOTE ALASKA INTERIM CETC CAP.

The Commission should also include support received by *all* CETCs serving remote areas of Alaska, without exclusion, in any Remote Alaska cap and delayed phase-down in support to Remote Alaska. This approach would fulfill the language and intent of the *Order* by ensuring

¹⁸ 54 C.F.R. § 307(e)(3)(v)(A).

that *all* Alaska providers receive support based on actual lines served. Absent further Commission action, a Remote Alaska provider that is “excluded” from the Remote Alaska mechanism could lose lines without losing support, whereas support to all other Remote Alaska providers would be dependent on the actual number of lines served. This would not only distort competition, but also reduce the incentives for providers to make new investments in service to unserved and underserved Remote Alaska areas, undermining the goals of universal service.

As set forth in GCI’s ex parte letter of December 12, 2011,¹⁹ the rules do not include all Remote Alaska providers within the Remote Alaska mechanism. Rather, the rules as written would exclude from the Remote Alaska cap an estimated \$19 million of CETC high-cost support by excluding support for Remote areas of Alaska for CETCs that did not certify that they served Covered Locations pursuant to the 2008 *Interim Cap Order*.²⁰ Because some CETCs are included within the Remote Alaska cap, while others are not, an “excluded” CETC could lose lines without losing support, while a shift of lines from an “excluded” CETC to an “included” CETC would dilute support for all other included lines. And none of these changes would result in any increase in the number of lines served in Remote Alaska. The resulting distortion of incentives would be substantial, as approximately 20 percent of all high cost support that Remote

¹⁹ See Dec. 12, 2011 GCI Ex Parte.

²⁰ See 47 C.F.R. § 54.307(e)(3)(ii) (limiting the delayed phase down to a carrier that “certified that it served covered locations in its September 30, 2011, filing of line counts with the Administrator.”) AT&T did not so certify, consistent with a commitment it had made as part of the Commission’s approval of its acquisition of Dobson. See *Applications of AT&T Inc. & Dobson Communications Corp.*, 22 FCC Rcd. 20295, 20329, ¶ 70 (2007). GCI estimates that the amount of CETC support received for service in Remote Alaska in 2011 will be approximately \$94 million for 2012. Of that amount, AT&T received approximately \$19 million. Excluding AT&T from the Remote Alaska cap and mechanism would thus reduce the cap available for other Remote Alaska CETCs to \$75 million for 2012.

Alaska receives today would be placed outside of the Remote Alaska mechanism absent further Commission action.²¹

The following example demonstrates how the exclusion of the “non-certifying” CETC reduces the incentives for providers to make the investments in unserved and underserved areas that the Remote Alaska mechanism was meant to preserve. If the Remote Alaska cap were calculated *excluding* high-cost support currently provided to non-certifying CETCs, then support to GCI would account for approximately 46 percent of the cap, support to Alaska Communications Systems (“ACS”) would account for approximately 24 percent of the cap, and support to all other certifying CETCs would account for approximately 30 percent of the cap. Under this calculation, if GCI were to add one line with uncapped support of \$10 as of December 31, 2011, and all other providers’ lines were to remain constant, GCI would net only \$5.44 in additional support, because in order to stay within the cap, all Remote Alaska CETCs would see their total support reduced by \$10 multiplied by their respective share of Remote Alaska high-cost support (\$4.56 for GCI, \$2.41 for ACS, and \$3.03 for all other certifying CETCs collectively).

By contrast, if the Remote Alaska cap were calculated *including* high-cost support currently provided to non-certifying CETCs, support to GCI would account for approximately 36 percent of the cap, support to ACS would account for approximately 19 percent of the cap, support to all other certifying CETCs would account for approximately 24 percent of the cap, and support to all non-certifying CETCs would account for approximately 21 percent of the cap. Under this calculation, the base over which an additional uncapped \$10 in support would be spread would be commensurately higher; in order to offset an increase of \$10 in support for an

²¹ This reduction is specifically due to the exclusion of lines currently served by AT&T in Remote Alaska.

additional line, all CETCs would see the following offsetting reduction in support: \$3.62 for GCI, \$1.91 for ACS, \$2.41 for all other certifying CETCs collectively, and \$2.05 for non-certifying CETCs. In other words, if all CETCs serving Remote Alaska were included in the Remote Alaska mechanism, GCI would net \$6.38 for adding one incremental line, as compared to \$5.44, a more than 17 percent increase. Likewise, the existing support for all other providers would experience a lesser dilution as a result of the line addition. Including all Remote Alaska CETCs in the Remote Alaska mechanism would thus substantially improve the incentives for increased service to unserved and underserved areas.

In addition, any Remote Alaska cap that excludes and freezes support to those carriers that did not operate under the Covered Locations exception to the 2008 *Interim Cap Order* would hold such non-certifying carriers harmless from line loss during the delayed phase-down, providing no incentive for such carriers to invest in new services or serve new – and even existing – customers. Under the current rules, non-certifying Remote Alaska CETCs could lose lines without losing support, while support to all other certifying Remote Alaska CETCs would be dependent on actual lines served. A non-certifying CETC serving Remote Alaska would receive a percentage of its actual 2011 disbursed support, regardless of the number of lines served. This application of the current rules therefore would actually *reduce* the incentives for a non-certifying carrier to invest in serving unserved and underserved areas. Such a result is inconsistent with the intent and language of the Remote Alaska proposals and *Order*.

To rectify these problems and to fulfill the Commission's intent to preserve, to the extent possible, incentives to expand service while adhering to a fixed budget, *all* CETC lines should be used to set the Remote Alaska cap. So as not to create a windfall to any carrier, all CETC lines

should be supported under the Remote Alaska mechanism at the actual per-line support amount that a certifying or non-certifying CETC, respectively, received as of December 31, 2011.

The following examples illustrate GCI's proposal (taking into account GCI's proposal in Section II, above, with respect to the method used to fix the Remote Alaska cap). Suppose that on December 31, 2011, certifying CETC A and certifying CETC B receive \$10 in high-cost support per line because they both certified that they served covered locations in their September 30, 2011 line count filings, and non-certifying CETC C receives only \$6 in high-cost support per line because it did not so certify and thus was subject to the standard operation of the 2008 *Interim Cap Order*. If certifying CETCs A and B then each report 10 lines on March 31, 2012, and non-certifying CETC C reports 10 lines, the Remote Alaska CETC cap (per Section II, above) would be \$260 statewide (20 lines x \$10/line + 10 lines x \$6/line).

If certifying CETC B and non-certifying CETC C were then each to add 10 more lines as of June 30, 2012, while certifying CETC A continued to serve only 10 lines, then, in the absence of the Remote Alaska CETC cap, total hypothetical uncapped Remote Alaska support would be \$420, calculated as follows:

- Certifying CETC A: 10 lines x \$10/line = \$100;
- Certifying CETC B: 20 lines x \$10/line = \$200; and
- Non-certifying CETC C: 20 lines x \$6/line = \$120

However, in order for the total amount of support to stay within the Remote Alaska cap, all certifying and non-certifying CETCs would be subject to a uniform percentage reduction of those uncapped amounts. That percentage would be calculated by dividing the statewide Remote Alaska cap (\$260) by the hypothetical non-capped support level (\$420), which equals 62 percent in this example, meaning that each CETC would receive 62 percent of its hypothetical uncapped

total (*i.e.*, a 38 percent reduction). Thus, the final total amount of support distributed to Remote Alaska CETCs would be \$260, with each carrier's support in this example calculated as follows:

- Certifying CETC A: $\$100$ (10 lines x $\$10/\text{line}$) x 62% = $\$62$
- Certifying CETC B: $\$200$ (20 lines x $\$10/\text{line}$) x 62% = $\$124$
- Non-certifying CETC C: $\$120$ (20 lines x $\$6/\text{line}$) x 62% = $\$74$

Under this proposed mechanism, no carrier would receive more support per line under the interim Remote Alaska support mechanism than it did on December 31, 2011. In addition, the total amount of support that could be reallocated among CETCs would be maximized, thus also maximizing any potential incentives to continue to invest in new, competitive deployments, to the extent that any such incentives would actually exist, given the other rules established in the *Order*.

This proposed change would have a minimal impact on the overall CAF budget. It would increase total CETC support by only approximately \$4 million in the first year, and only approximately \$8 million in the second – the amount of support for the non-certifying CETC that would not be automatically reduced in those first two years. If the Mobility Fund Phase II, including its Tribal component, is timely implemented as proposed, all further support reductions would occur as scheduled.

Proposed rule language to implement this change is attached as Appendix A.

IV. THE COMMISSION SHOULD CALCULATE THE BASELINE FOR ANY DELAYED PHASE-DOWN OF REMOTE ALASKA SUPPORT ACCORDING TO LINE COUNTS AS THEY EXIST AT THE END OF THE DELAY.

The Commission should also revise its rules to effectuate the language and intent of the *Order*, and set the per-carrier/per-study-area baseline of support based on line counts and per-line support amounts as they exist at the end of the two-year delay before any phase-down of the

Remote Alaska baseline. This revision would provide CETCs with incentives to invest in new deployments throughout the delay period. Currently the rules fix the per-study-area support levels *six months before* the start of the delayed Remote Alaska support phase-down and set the delayed phase-down baseline on amounts *disbursed* in 2013 (reflecting lines served in 2012), rather than on the lines actually *in service*, multiplied by the actual per-line support amounts at the end of 2013.²²

Contrary to the language of the *Order*, such a rule would *not* “facilitate additional investment in still unserved and underserved areas during the national transition to the Mobility Funds.”²³ Rather, these rules would arbitrarily remove incentives for CETCs to deploy new services or to add new lines in still unserved and underserved areas after the fourth quarter of 2012, because lines added after the fourth quarter of 2012 would not affect calendar year 2013 disbursements. Under the current rules, the frozen per-study-area support amount for each CETC that will be in effect as of January 1, 2014, will be fixed based on calendar year 2013 disbursements. But calendar year 2013 disbursements are based on line counts reported for March 31, June 30, September 30 and December 31, 2012. Accordingly, unless a CETC wins or otherwise begins to serve a customer in the first quarter of 2012, support for service to that customer will not be fully reflected in the frozen support amount that the CETC will begin receiving on January 1, 2014.²⁴ Thus, at best, the current rules provide only a very short term incentive to add service to unserved and underserved areas. At worst, they would facilitate

²² 47 C.F.R. § 54.307(e)(3)(iii).

²³ *Order*, ¶ 529.

²⁴ Similarly, if a CETC were to gain a customer in the fourth quarter of 2014, only 25 percent of the annual support that the CETC will receive for that customer would be included in the 2014 frozen support amount, because the CETC would receive only one quarter’s worth of disbursed support for that customer in calendar year 2013.

temporary line grabs in already served areas in lieu of new investment in unserved and underserved areas.

This problem could be rectified through two steps. First, each CETC's frozen per study area baseline support amount – to which the initial 20 percent reduction would be applied – should not be set until the delayed phase-down for Remote Alaska actually begins, *i.e.*, the later of July 1, 2014, or the implementation of Mobility Fund Phase II, including its Tribal component. This step would provide incentives for CETCs to continue expanding services and would “facilitate additional investment in still unserved and underserved areas” until the latest possible date.

Second, to again avoid the problem of line reporting and distribution lags,²⁵ the support level for the phase-down should be fixed based on the actual line count during the last complete month prior to the commencement of the support phase-down, *i.e.*, the latest possible line count would be used to calculate each per-study-area support amount. Of course, because the overall support amount would already have been capped, this rule change would affect only relative distribution of that support among carriers and study areas, and would have no overall budget impact.

Proposed rule language to implement these proposed changes is attached as Appendix A.

V. THE COMMISSION SHOULD HARMONIZE ACCESS REFORM FOR ALL INTERSTATE AND INTRASTATE ACCESS RATES, INCLUDING VOIP.

Revised rules are also necessary with respect to the intercarrier compensation transition for both VoIP-PSTN and traditional PSTN-PSTN traffic to take into account situations where *interstate* access rates exceed *intrastate* access rates. Specifically, the Commission should: 1)

²⁵ As noted in Section II, *supra*, there is normally a 10-12 month lag between the time service is provided to a line and the time support is received reflecting that line being in service.

make clear that intrastate toll VoIP traffic is not subject to rates that exceed current rates in the event that intrastate access rates are below interstate access rates; and 2) revise the access transition to harmonize interstate and intrastate access rates on the same schedule and to the same extent when intrastate access rates are below interstate access rates.

A. Intrastate Toll VoIP-PSTN Traffic Should Remain Subject to Intrastate Access Rates When Those Rates Are Lower.

Under the new rules, 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.”²⁶ GCI urges the Commission to clarify that 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 be subject to interstate access rates. This issue is particularly time sensitive, as it could begin having an impact as soon as December 29, 2011 (depending on when and if Local Exchange Carriers (“LECs”) file revised intrastate access tariffs for intrastate toll VoIP-PSTN traffic). Thus, GCI respectfully requests that the Commission take immediate corrective action.

While the rule as set forth in the *Order* makes sense when intrastate access rates exceed interstate access rates, the rule as currently written could have the peculiar result in Alaska of *increasing* access rate levels for intrastate toll traffic that originates and/or terminates in IP because in Alaska, particularly outside of the ACS study areas, interstate access rates often exceed intrastate access rates. The difference is significant, as the following chart shows:

²⁶ 47 C.F.R. § 51.913(a).

Telephone Company	2011 Tariff Rates				Interstate as a % of intrastate
	NECA LS Band	Interstate total LS + IS per minute ²⁷	Intrastate total LS + IS per minute	Amount interstate exceeds intrastate per minute	
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. In fact, 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 mile from the switch to the customer’s premises was IP or TDM. However, the new rules could actually *raise* the access rates for IP originated and/or terminated traffic, which would be contrary to all of the other elements of the access transition plan. Clarifying rule language should therefore confirm that intrastate toll VoIP-PSTN traffic would remain subject to

²⁷ “LS” refers to local switching; “IS” refers to information surcharge.

the intrastate access rates where those rates are lower, while interstate toll VoIP-PSTN traffic would remain subject to interstate access rates.²⁸

Proposed rule language to implement this proposed change is attached as Appendix B.

B. Access Rates Should Be Harmonized to the Lower of the Interstate or Intrastate Access Rates.

The access transition schedule set forth in the *Order* and in the rules for access rates also do not adequately address the situation in which intrastate access rates are below interstate access rates for functionally equivalent elements.²⁹ Thus, the Commission should revise its rules to require reducing 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.³⁰ This rule change would treat carriers in areas in which intrastate access rates are below interstate access comparably with all other carriers.

Under the current rules, for carriers in areas in which the *interstate* switched access rates exceed *intrastate* switched access rates, rates for terminating switched transport and originating and terminating dedicated switched transport would *never* be harmonized, except to the extent

²⁸ As GCI noted in its December 19, 2011 ex parte filing, making this change would not undermine the Commission's legal rationale for its VoIP-PSTN access transition. Paragraph 956 of the *Order* 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). 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.

²⁹ See *Order*, ¶ 801; 47 C.F.R. §§ 51.907, 51.909 and 51.911.

³⁰ As 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.

that terminating switched transport rates are reduced to bill-and-keep and \$.0007, respectively, in steps 6 and 7 for price cap carriers. Even at that point, those reductions would be limited to terminating traffic within the tandem serving area when the terminating carrier owns the serving tandem switch, which would not occur in Alaska because no carrier owns or operates tandem switches.

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. GCI requests that the Commission modify those 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.

Proposed rule language to implement this proposed change is attached as Appendix C.

VI. MOBILITY FUND PHASE 1 BIDDING CREDITS SHOULD EXTEND TO ALL ENTITIES SERVING TRIBAL LANDS.

GCI applauds the Commission for recognizing that Tribal lands are in need of special priority and attention from the Mobility Fund. As such, GCI supports a 25 percent bidding credit for extending broadband-capable mobile wireless service to Tribal lands, as the Commission has previously adopted for wireless auctions.³¹

As adopted, however, these bidding credits are limited to “Tribally-owned or controlled” entities, rather than extending, as the wireless bidding credits did, to all entities serving qualified Tribal lands. In the Order, the Commission does not discuss why it was important to focus on the identity of the entity owning or controlling the mobile broadband provider, rather than the

³¹ See e.g. 47 C.F.R. § 1.2110(f)(3).

fact of providing mobile broadband to these unserved areas.³² Importantly, many qualified Tribal lands are not served by a Tribal-owned or tribal-controlled entity, thus the Commission's decision here would arbitrarily preclude many Tribal communities from receiving the benefits of these bidding credits. Moreover, excluding non-Tribally owned or controlled entities, may lead to inefficient scale operation, and fragment mobile broadband service across a region. That could impair, rather than enhance, broadband service over time. The Commission should thus extend the 25 percent Tribal lands bidding credit to all entities serving qualified tribal lands.

VII. MOBILITY FUND PHASE I FUNDING SHOULD NOT BE AVAILABLE FOR OVERBUILDING EXISTING MIDDLE MILE FACILITIES.

As GCI and others suggested, the Commission made clear that Mobility Fund Phase 1 funding may be used to “construct or upgrade middle mile facilities.”³³ That is the correct approach. However, as framed, Mobility Fund Phase I funding could be used to overbuild existing middle mile facilities that are otherwise available and suitable to support mobile wireless broadband services meeting Mobility Fund Phase 1 requirements.

In this instance, it is not in the public interest to expend limited support on the construction of duplicative middle mile facilities where suitable capacity is available. The areas that will be served by Mobility Fund Phase 1 are extremely thin markets, and thus it is important that demand be aggregated on common facilities to the extent possible. This includes not just demand to support mobile wireless broadband, but also fixed mass-market and enterprise broadband, as well carrier and specialized services. The Commission should thus preclude use

³² Nor does *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, First Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 09-52, 25 FCC Rcd. 1583, 1587-97, ¶¶ 7-27 (2010) (*Rural Radio R&O and FNPRM*), support this decision. The *Rural Radio R&O* involved FM broadcast stations, which arguably affect the Commission's interests in media diversity.

³³ *Order*, n. 799 at 157.

of Mobility Fund Phase 1 funding to construct (but not to procure) middle mile facilities where adequate facilities are otherwise available.

CONCLUSION

GCI appreciates and agrees with the Commission's goals of preserving newly initiated services and facilitating additional investment in still unserved and underserved areas during the national transition to the Mobility Funds. However, there was no basis in the record for the Commission's conclusion that that support to Remote Alaska is currently excessive and thus should be phased out. Therefore, the Commission should *not* require a downward transition from current high-cost support levels in Remote Alaska, as set forth in the *Order*. If it does proceed with its current Remote Alaska mechanism, the Commission should quickly revise and correct the Remote Alaska CETC support rules as described herein to meet its stated goal to the extent possible. The Commission should also revise its intercarrier compensation transition rules as described herein as soon as possible to take into account situations where interstate access rates exceed intrastate access rates. And the Commission should revise its Mobility Fund Phase 1 rules to extend Tribal land credits to all entities serving qualified Tribal lands, and to preclude the use of Mobility Fund Phase 1 funds to overbuild existing adequate middle mile facilities.

Respectfully submitted,

/s/

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