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January 10, 2012

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

Re: Petition of the United States Telecom Association for Waiver from Application of
the Equal Access Scripting Requirement, WC Docket No. 08-225

Dear Ms. Dortch:

This letter responds to the November 30, 2011 *Ex Parte* Notice filed by General Communication, Inc. in the above-captioned docket.¹

In its letter, GCI agrees that, generally, the Commission should waive the Equal Access Scripting rule (“EA Scripting Rule”) for independent incumbent local exchange carriers (“ILECs”) because the local service market has become so much more competitive.² Its objection stands, however, for local markets in Alaska (and other similar places) where a competitor “cannot offer competing bundled packages of local and long distance services and where ILECs refuse collocation in order to levy entrance facility charges for transport that they do not provide.”³

GCI implies that local competition cannot practically exist in Alaska unless a CLEC serves the area and has been able to negotiate effective collocation and interconnection terms with the ILEC. GCI suggests that, because there is little terrestrial connectivity between villages and Alaska does not have a system of tandems, competition can only occur if the competing carrier can interconnect directly at the ILEC switch.⁴

GCI’s arguments are designed to give it a market advantage by burdening ILECs with customer unfriendly obligations it avoids as a wireless competitor, not promote sound public policy. The Commission should approve the USTA waiver petition, and extend the waiver to all independent ILECs.

GCI Underplays the Extent of Local Competition in Alaska

By taking this position, GCI underplays how broadly entities compete for local service customers in Alaska markets. Wireless carriers and cable companies using their own facilities provide local service

¹ Letter to Marlene H. Dortch, Secretary, FCC from John T. Nakahata, Counsel to General Communication, Inc. WC Docket No. 08-225, dated Nov. 30, 2011 (“GCI Letter”).

² *Id.*, p. 1.

³ *Id.*

⁴ *Id.*

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and interexchange service without needing to interconnect directly with the ILEC at its local switch location. Moreover, any customer with broadband has access to numerous VOIP providers such as Skype and Google Voice that provide the same service as LECs.

GCI's own local service deployment proves this point - that local competition in Alaska goes far beyond what GCI suggests. GCI is building an extensive wireless network in rural Alaska so that it can provide telecommunications (including local) services to consumers in remote areas of the state. GCI has been focusing on expanding its wireless line of business for provision of competing services in rural areas as the following points illustrate:

- GCI has been designated as a wireless ETC in twenty-three ILEC study areas.⁵ As an ETC, GCI provides competitive local service, as well as other basic services in all these areas.
- GCI has obtained state regulatory approval to discontinue wireline CLEC local service to some rural communities in Alaska on the ground that wireless service was a more efficient and economical way to compete.⁶ In the case, GCI stated that it had deployed wireless facilities so that it could provide competitive wireless service to Wrangell and Petersburg; that its wireless technology provided the most efficient and economical means to compete with the ILEC; and therefore, it was no longer willing to provide cable-based wireline LEC service in those locations.⁷
- GCI has suspended or deferred plans to build out parts of its Alaska CLEC network so that it can channel resources to provide service to communities via wireless. For example, on January 6, 2011, GCI stated in a compliance filing to the RCA that in 2009, it did not have the available capital to significantly expand its ETC cable plant in the Matanuska Telephone Assn., Glacier State, and Copper Valley study areas.⁸ Instead, "GCI devoted much of its available capital to funding and deploying a new statewide wireless network, including upgrading and deploying wireless facilities" in those study areas.⁹
- GCI's growth and acquisition strategy has centered on wireless. In 2008, GCI purchased United Utilities, Inc. to "accelerate rollout of mobile wireless service in rural Alaska ..." ¹⁰ In 2009, GCI merged with wireless carrier Alaska DigiTel and received RCA approval to transfer all of Alaska

⁵ *In the Matter of the 2010 Eligible Telecommunications Carrier Report filed by GCI Communication Corp. d/b/a General Communication, Inc. and GCI*, GCI's Compliance Filing, U-10-82, dated January 6, 2011, Ex. 1. ("GCI's Compliance Filing")

⁶ *In the Matter of the Request Filed by GCI Communication Corp. d/b/a/ General Communication, Inc. and GCI to Delete Authority to Provide Local Exchange Service to Wrangell and Petersburg, Alaska*, Docket U-10-36(2), Order No. 2 issued December 7, 2010.

⁷ *Id.*, p. 3.

⁸ GCI's Compliance Filing, pp. 16, 17, 22 and 23.

⁹ *Id.*

¹⁰ General Communication Inc., *Company overview, 1*, <http://www.gci.com/about/company-overview>. Last viewed December 21, 2011.

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DigiTel's ETC designations to it, significantly expanding the areas where GCI provided local service as an ETC by wireless.¹¹

- In 2008, GCI filed a request to be designated as an ETC in Mukluk Telephone Company's service area, which encompassed twelve tiny exchanges (with under 166 residences) and Nome (with 1215 residences) through cable (in a portion of Nome) and wireless service (everywhere else).¹² The RCA divided the application into two petitions and reviewed both of GCI's service offerings (local exchange and CMRS) on a standalone basis to determine if an ETC designation was appropriate for either service. The RCA granted the wireless ETC petition and rejected the wireline cable ETC petition because GCI did not hold a CLEC certificate to serve the entire study area overall.¹³ Thus, GCI's wireless service was the more viable means to provide local service in this area.
- GCI has successfully used wireless to reach its goal of serving Alaska customers statewide. In its most recent 10-K, GCI projects that its wireless facilities will cover 98% of the urban and rural Alaska population by year end, 2011.¹⁴

GCI provides competitive local service via its cable facilities in many communities in Alaska but increasingly has relied on its wireless service to compete with ILECs. Based on a review of the last five years of dockets, it has not filed any interconnection complaints with the RCA alleging unfair interconnection terms. If GCI chooses to, it can certainly use its USF support to build out its cable facilities to fulfill its ETC obligations. When using its own cable facilities to provide local service, GCI does not need to collocate at an ILEC local switch to exchange traffic. It can exchange traffic by ordering or constructing local access facilities to extend voice trunks between their facility and the ILEC switch location.

Alaskans have other local service options open as well, including VOIP service.

Local competition occurs in many different forms in Alaska, despite GCI's claims. GCI appears to be using this proceeding as a lever to press for intercarrier compensation changes that would benefit its CLEC line of business. GCI would have the Commission grant ILEC waivers on a case-by-case basis only after it took evidence on issues such as whether the ILEC offered reasonable collocation and access charge terms, whether a wireline CLEC was present in its area and offered bundles of local and long

¹¹ *In the Matter of the Joint Petition Filed by GCI Communication Corp. d/b/a General Communication Inc. and GCI and Alaska DigiTel, LLC to Transfer Eligible Telecommunications Carrier Designations, Order Granting Petition to Transfer Eligible Telecommunications Carrier Designation and Requiring Filings*, U-08-106, Order No. 2, issued February 23, 2009.

¹² *In the Matter of the Request Filed by GCI Communication Corp. d/b/a General Communication, Inc and GCI for Designation as an Eligible Telecommunications Carrier in the Study Area Served by Mukluk Telephone Company, Inc., Order Rejecting Petition as Filed, Reviewing Distinct Services Separately, Granting Eligible Telecommunications Carrier Status for Mobile Wireless Service Subject to Conditions, Denying Eligible Telecommunications Carrier Status For Local Exchange Service, Requiring Clarification of Fixed Wireless Service and Finding Motions Moot*, U-08-6, Order No. 9, issued October 13, 2008, pp. 1, 2, and 13.

¹³ *Id.* p. 13.

¹⁴ General Communication Inc. 2010, General Communication Inc. Form 10k Annual Report, 11 (2011) available at <http://www.edgar-online.com>.

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distance service and whether the ILEC had actually implemented interconnection agreements. This process would be unnecessary to protect consumers, and designed instead to gain market advantage for the CLEC which bears none of the administrative burdens of the EA Scripting rule.

GCI Has Not Shown Any Valid Reason to Continue the EA Scripting Rule

By arguing about alleged technical limitations on local competition in Alaska, GCI attempts to take the Commission's eye off the ball. The purpose of the EA Scripting Rule was to encourage competition in the nascent stand-alone *long distance* market in an era with fewer competitive long distance choices.¹⁵ The decline of stand-alone long distance service and diversification of long distance options have rendered the requirement obsolete. As the FCC has found, the long distance market has changed so substantially that the requirement is no longer necessary to protect consumers.¹⁶

Nothing GCI has said has rebutted this conclusion. Ironically, GCI's own preferred expansion mode for telecommunications services, wireless, is not even offered as a long distance option to ILEC customers in the equal access script. Stand-alone long distance competition has substantially given way to competition between providers' bundles and any distance minutes that customers can use for local, regional or interstate long distance calling.

The Commission should grant the USTA Petition as soon as possible, and extend the waiver to all independent local exchange companies.

Respectfully submitted,

/s/ _____
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¹⁵ *Petition of the United States Telecom Association for Waiver From Application of the Equal Access Scripting Requirement*, WC Docket No. 08-225, dated Nov. 7, 2008, pp. 5-6.

¹⁶ *Section 272(f)(1) Sunset of BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region Interexchange Services. Report and Order and Memorandum Opinion and Order*, 22 FCC Rcd 16440, 16442, 16499-500 (2007).