

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

In the Matter of)	
)	
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 a 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
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

OPPOSITION OF ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.

Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”),¹ files these comments in partial opposition to certain specific aspects of three Petitions for Reconsideration of the Commission’s *Report and Order and*

¹ In this proceeding Alaska Communications Systems Group, Inc. represents four local exchange carriers, ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc., as well as ACS Long Distance, Inc., ACS Internet, Inc., ACS Cable, Inc., and ACS Wireless, Inc. Together, these companies provide wireline and wireless telecommunications, information, broadband, and other network services to residential, small business and enterprise customers in the State of Alaska and beyond, on a retail and wholesale basis, using ACS’s statewide and interstate facilities.

Further Notice of Proposed Rulemaking in the above-captioned dockets.²

I. Summary

Overall, ACS agrees with the thrust of the filings made by both the Alaska Rural Coalition (“ARC”) and General Communication, Inc. (“GCI”), that the new Connect America Fund (“CAF”) regime will fail to provide specific, predictable and sufficient support for Alaskans unless Alaska-specific costs and constraints are taken into account. ACS objects to ARC’s suggestion that the Commission did not provide adequate notice or opportunity for comment on the phase-out of high-cost support for competitive eligible telecommunications carriers (“CETCs”). ACS has no objection to ARC’s suggestion that a similar two-year delay should be extended to all ETCs in Alaska. ACS supports ARC when it argues that terrestrial backhaul must be both available and affordable in order for broadband deployment to be feasible – which is not currently the case in many parts of Alaska.

ACS also supports GCI’s proposal to modify Section 54.307(e)(3)(ii) of the new rules to include *all* Alaska CETC support in the Alaska remote areas fund. ACS does not agree that the Commission should reconsider its method for calculating the phased-down CETC support based on 2011 line counts. ACS agrees with GCI, however, that any changes that the Commission makes to the support mechanism for Alaska CETCs should be adopted by March 31, 2012 in order for Alaska CETCs to take advantage of the limited construction season in 2012.

² *Connect America Fund et al.*, Report and Order (“*CAF/ICC Order*”) and Further Notice of Proposed Rulemaking (“*FNPRM*”) in WC Docket No. 10-90 *et al.*, FCC 11-161 (rel. Nov. 18, 2011). *See* Petitions for Reconsideration of Action in Rulemaking Proceeding, FCC Report No. 2945 (rel. Jan. 12, 2012), 77 Fed. Reg. 2625 (Jan. 25, 2012).

Finally, ACS agrees with the concerns expressed in the Frontier-Windstream Petition about the requirement that CAF I recipients deploy broadband to at least one unserved location for every \$775 in incremental support. ACS confirms that the assumptions underlying this decision appear to be flawed, at least where Alaska carriers are concerned. However, ACS opposes the Frontier-Windstream argument that the CAF/ICC Order is ambiguous or even inequitable in its instructions to the Wireline Competition Bureau for distributing incremental CAF Phase I support. ACS believes the Commission expressed its clear intention that the \$300 million budgeted for incremental Phase I support be targeted to the highest-cost price cap wire centers that are unserved by any unsubsidized competitor – which will not close the broadband availability gap by any measure, but is a necessary first step.

II. Petition of the Alaska Rural Coalition (“ARC”)

ACS agrees with the concerns raised in the ARC Petition that the CAF/ICC Order does not go far enough to ensure adequate support for broadband deployment in Alaska. While ACS applauds the Alaska-specific measures adopted by the Commission, ACS believes that the broadband availability gap will continue to affect remote areas of Alaska more than virtually any other region of the nation. ACS strongly advocated targeting support to remote areas of Alaska during the rulemaking process; indeed, ACS advocated a plan that would have allocated approximately \$219 million per year for ten years to Alaska ETCs, phasing out support over time in the more densely populated communities and targeting support to the highest-cost areas in the state.³

Although disappointed that its own recommendations were not adopted, ACS believes

³ Comments of ACS in WC Docket No. 10-90 *et al.*, filed Aug. 24, 2012.

that the Commission adopted a reasonable compromise in the “Remote Areas” solution for Alaska CETC support. While ACS would have no objection to a similar two-year delay for all ETCs in Alaska, as advocated in the ARC Petition, ACS takes issue with ARC’s suggestion that the Commission did not provide adequate notice or opportunity for comment on the appropriate transition of high-cost support for CETCs.⁴ ACS and a number of other Alaska parties made numerous filings between August and October touching upon these issues of critical importance to the state.⁵ The Commission’s decision to adopt a modified transition mechanism for Alaska CETCs was neither improperly adopted nor unsupported by the extensive record in this proceeding.

ACS supports the ARC Petition to the extent that it seeks clarification on the definition of “available” terrestrial backhaul.⁶ ACS long has advocated that backhaul must be both available *and affordable* in order for broadband deployment to be feasible – which is not currently the case in many parts of Alaska.⁷ ARC correctly points out that backhaul capacity is constrained in Alaska to an extent that is unmatched in the Lower 48

⁴ ARC Petition at 4.

⁵ For example, ACS discussed the remote areas concept in its August 24 comments and again in its Oct. 21 *ex parte* filing. See *Connect America Fund et al.*, Comments of Alaska Communications Systems Group, Inc., WC Docket No. 10-90 *et al.*, at 10-15 (filed Aug. 24, 2011) (“Comments of ACS”); and see also *Developing a Unified Intercarrier Compensation Regime, et al.*, CC Docket Nos. 01-92 and 96-45, WC Docket Nos. 03-109, 05-337, 07-135 and 10-90, and GN Docket No. 09-51, ACS *Ex Parte* Notice, at 3 (filed Oct. 21, 2011) (“ACS October 21 *Ex Parte*”).

⁶ ARC Petition at 13.

⁷ *E.g.*, Comments of ACS at ii and 6, and n. 11; see also *Connect America Fund; High-Cost Universal Service Support*, Comments of Alaska Communications Systems Group, Inc., WC Docket Nos. 10-90 and 05-337, at 9-10 (filed Feb. 1, 2012) (“ACS Model Comments”) (describing the problem of backhaul costs and availability in Alaska).

states; limited availability of terrestrial backhaul has led to near-monopolistic pricing practices, even on publicly-funded facilities.⁸ The Commission should clarify that backhaul will not be deemed “available” under the CAF regime if it cannot be obtained at a price reasonably comparable to prices for backhaul links between urban areas.

III. Petition of General Communication, Inc. (“GCI”)

The GCI Petition correctly observes that the new rules do not include all Alaska CETCs serving remote areas in the remote areas mechanism.⁹ By limiting the amounts in the mechanism to support for CETCs that certified they served covered locations as of September 30, 2011, the Commission without explanation omits approximately \$19 million from the fund for remote areas. GCI proposes a discreet but important rule change that would modify Section 54.307(e)(3)(ii) of the new rules to include *all* remote area CETC support in the Alaska remote areas fund, and increase the likelihood that Alaska carriers will extend their broadband facilities to new customers in remote areas. Therefore, ACS supports this modest change to the Commission’s rules.

ACS does not agree, however, that the Commission should reconsider its method for calculating the phased-down CETC support based on 2011 line counts.¹⁰

⁸ ACS’s experience seeking terrestrial backhaul via the TERRA-SW Project is similar to that of ARC’s members. ACS’s requests for price quotes were initially ignored by GCI, the reseller of the products from the TERRA-SW project, which is owned and operated by United Utilities, Inc. Only after many attempts over the course of several months and after a formal demand letter for proposed pricing did GCI respond to ACS’s request for a quote on TERRA-SW products, and then it did so with pricing that is no more economical than satellite backhaul. *See* ARC Petition at 12 (“Only two carriers out of four who requested a [price] quote actually received one” and “the price provided by UUI/GCI far exceeded the cost of purchasing satellite backhaul”).

⁹ GCI Petition at 9-11.

¹⁰ GCI Petition at 14-16.

ACS believes that the Commission's rule Section 54.307(e)(3)(iii), as adopted, provides a reasonable degree of certainty for all Alaskan carriers to make prudent investment decisions during the phase-down period, whether it lasts two years or longer. ACS therefore opposes reconsideration of Section 54.307(e)(3)(iii).

ACS agrees with GCI that any changes that the Commission does make to the support mechanism for Alaska CETCs should be adopted in short order, so that Alaska CETCs may take advantage of the limited construction season in 2012.¹¹ As ACS has documented, Alaska carriers face a unique hardship in that most construction not begun in June, and planned earlier in Spring, must be delayed until the following year – conditions in Alaska simply are too harsh for most network deployment to take place any other time in the year. Therefore, the Commission should make every effort to resolve the Petitions for Reconsideration, at least to the extent that they affect Alaskan carriers, by the end of March.

IV. The Frontier-Windstream Petition

The Frontier-Windstream Petition observes that the Commission appears to have relied on flawed assumptions in adopting the requirement that CAF Phase I recipients deploy broadband to at least one unserved location for every \$775 in incremental support. ACS shares the concern that, to the extent the Order relies on nationwide average costs, the amount of support generated under CAF Phase I for many Alaska wire centers will be insufficient even for one-time build-out expenses.¹² ACS

¹¹ GCI Petition at 22.

¹² See Frontier-Windstream Petition at 16.

agrees with the petitioners that the Commission should base its CAF Phase I deployment requirements on an examination of the realistic cost of deployment in those areas that remain unserved.

However, ACS opposes the Frontier-Windstream argument that the CAF/ICC Order is ambiguous in its instructions to the Wireline Competition Bureau for distributing incremental CAF Phase I support.¹³ ACS believes that the Commission clearly expressed the decision to target the \$300 million budgeted for incremental Phase I support to the highest-cost price cap wire centers that are unserved by any unsubsidized competitor. The Commission stated that the incremental CAF support mechanism is “designed to identify the most expensive wire centers,” not all the wire centers that should be supported.¹⁴ This step will not close the broadband availability gap, or even come close, but it is a useful first step, as the Commission observed.¹⁵ Through the CAF Phase II mechanism and the Remote Areas Fund, the Commission has promised to provide much greater amounts of support on an ongoing basis for most wire centers where there otherwise would be no economically feasible way to deliver broadband and voice service.¹⁶ In crafting the CAF Phase I mechanism to target a specific and urgent

¹³ Frontier-Windstream Petition at 7-8.

¹⁴ *CAF/ICC Order* n. 220.

¹⁵ *CAF/ICC Order* at ¶127 (noting that more than 83 percent of households without access to fixed broadband are in price cap carrier service areas, and the CAF Phase I mechanism is a “first step” in addressing this gap); *id.* at ¶139 (“we are trying to identify an appropriate standard to spur immediate broadband deployment to as many unserved locations as possible, given our budget constraint”).

¹⁶ *See CAF/ICC Order* at ¶¶ 167-170 and 533-538.

need, the Commission's logic is sound, and it has struck a fair compromise among complex competing concerns.

V. Conclusion

For the foregoing reasons, ACS urges the Commission to grant limited reconsideration to the extent discussed above, and otherwise to deny the Petitions for Reconsideration.

Respectfully submitted,

/s/

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