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 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
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

REPLY COMMENTS OF THE ALASKA RURAL COALITION

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Table of Contents

I. Introduction 2

II. Survival of Rural ILECs Is Critical to Achieving the Commission's Goals of Extending Broadband Service to All Americans 3

A. Americans living in Rural America Will Suffer Without Predictable and Sufficient High Cost Support. 4

B. The Commission's Quantile Regression Model Faces Nearly Universal Opposition In Light of Real and Immediate Danger It Poses to Rural ILECS. 5

III. Support for Mobile Broadband and Telephony Cannot and Should Not Supplant Vital Funding for Existing Legacy Networks 8

A. Remote Alaska Depends on Traditional Telephony For Essential Communications Services. 9

B. Funding For Broadband in Remote Alaska Should Not Be Limited to Mobile Services. 11

IV. Middle Mile Facilities Supported by Federal Funds Should Be Available on a Regulated, Common Carrier Basis 13

A. No Incentive to Build Duplicative Middle Mile Where Access To Existing Facilities Is Cost-Based. 14

B. Middle Mile Access and Construction Is Appropriate to Recover Through a Rate-of-Return Ratebase. 16

V. If Mobility Fund Phase II Implementation Favors the Largest Carriers, a Monopoly Market Will Develop 16

A. Competitive Bidding Mechanisms Will Shape the Future of Telecommunications in Alaska. 17

B. Mobility Fund Support Should First Go to Areas Not Served by the National Highway System. 19

VI. Remote Areas Fund Must Support Construction and Access to Critical Middle Mile Facilities 19

VII. Conclusion 21

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Adak Eagle Enterprises LLC	Arctic Slope Telephone Association Cooperative, Inc.
Bettles Telephone, Inc.	Bristol Bay Telephone Cooperative, Inc.
Bush-Tell, Inc.	Circle Telephone & Electric, LLC
Cordova Telephone Cooperative, Inc.	Copper Valley Telephone Cooperative, Inc.
City of Ketchikan, Ketchikan Public Utilities	Matanuska Telephone Association, Inc.
OTZ Telephone Cooperative, Inc.	Interior Telephone Company
Mukluk Telephone Company, Inc.	Alaska Telephone Company
North Country Telephone Inc.	Nushagak Electric and Telephone Company, Inc.
The Summit Telephone and Telegraph Company, Inc.	Yukon Telephone Company, Inc.

I. Introduction.

The Alaska Rural Coalition[1] ("ARC") files its Reply Comments in this proceeding pursuant to the *Further Notice of Proposed Rulemaking* issued by the Federal Communications Commission ("Commission") on November 18, 2011.[2] The ARC filed Comments on January 18, 2012 regarding universal service reforms proposed by the Federal Communication Commission ("Commission") in its November 18, 2011 *USF/ICC Transformation Order* ("*Transformation Order*"). The ARC's Reply Comments examine common themes from other rural carriers as well as other Alaska Carriers and highlight key differences where they may exist.

The ARC membership consists of essentially all rate of return incumbent rural local exchange carriers ("RLECs") in Alaska,[3] who share unified interests regarding the impacts of further proposed changes in universal service funding for the state. The ARC urges the

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1 The ARC is composed of Adak Eagle Enterprises LLC, Arctic Slope Telephone Association Cooperative, Inc., Bettles Telephone, Inc., Bristol Bay Telephone Cooperative, Inc., Bush-Tell, Inc., Circle Telephone & Electric, LLC, Cordova Telephone Cooperative, Inc., Copper Valley Telephone Cooperative, Inc., City of Ketchikan, Ketchikan Public Utilities, Matanuska Telephone Association, Inc., OTZ Telephone Cooperative, Inc., Interior Telephone Company, Mukluk Telephone Company, Inc., Alaska Telephone Company, North Country Telephone Inc., Nushagak Electric and Telephone Company, Inc., The Summit Telephone and Telegraph Company, Inc., and Yukon Telephone Company, Inc.

2 *See Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for our Future*, 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, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) ("*Transformation Order*" and "*FNPRM*").

3 The other ILECs in the state are the ACS companies, which are all price cap, and United Utilities, Inc., a rural ILEC that is wholly–owned and controlled by GCI.

Commission to focus on creating stability in the regulatory environment as it implements the details necessary to effectuate the change outlined in the *Transformation Order*.[4]

II. Survival of Rural ILECs Is Critical to Achieving the Commission's Goals of Extending Broadband Service to All Americans.

Reply Comments traditionally discuss, support and/or dispute the arguments and analysis of other Commenters. The ARC's Reply Comments will serve this important function in due course, but the ARC believes that it is imperative that the Commission appreciate the big picture for rural carriers to place that analysis in the appropriate context. The Rural Associations found that "[t]he CAF in its current form is not a solution to the challenges of national broadband deployment, availability, or adoption because it does not provide for equivalent opportunities nationwide.[5] Every Commenter who discussed Alaska expressed grave concern about the impact of the *Transformation Order* on the health of the telecommunications industry and, more importantly, the Alaskan consumers who depend on it for critical services.[6]

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4 Shawn Buckley, *FCC goes public with its ambitions Connect America fund*, Fierce Telecom (Nov. 21, 2011), http://www.fiercetelecom.com/story/fcc-goes-public-its-ambitious-connect-america-fund/2011-11-21 ("It is essential that the order and the final outcome of the further notice of proposed rulemaking eliminate lingering regulatory uncertainty so that small rural carriers can attract capital and operate high-quality rural broadband networks[.]"... That uncertainty has a near and long-term effect on how rural service providers can expand broadband to more of their users."); *see also* Ross Boettcher, *Shift for Rural Telecoms*, Omaha World-Herald, Nov. 22, 2011, *available at* http://www.omaha.com/article/20111102/MONEY/711029925 ("U.S. Rep. Lee Terry, vice chairman of the Energy and Commerce Committee's subcommittee on Communications, Technology and the Internet, said he realizes the lack of predictability is an issue.").

5 *See Initial Comments of the National Exchange Carrier Association, Inc.*, ("NECA") *et. al. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*NECA Comments*") at 3.

6 *See Comments of the Regulatory Commission of Alaska in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan.

A. Americans living in Rural America Will Suffer Without Predictable and Sufficient High Cost Support.

Rural telephone companies have answered the call to connect every American to our national telecommunications network.[7] As a society, we have committed to judging the quality of our system on the ability of any citizen to obtain affordable telephone service. Historically, legislators, regulators and industry have recognized that the nation's telecommunications system

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18, 2012) ("*RCA Comments*"); *Comments of General Communication, Inc. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*GCI Comments*"); *Comments of Alaska Communications Systems Group, Inc. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*ACS Comments*"); *Comments of the Alaska Rural Coalition in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*ARC Comments*"); *Comments of the Moss Adams Companies in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Moss Adams Comments*"); *FNPRM Comments of GVNW Consulting, Inc.: USF Issues, in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 17, 2012) ("*GVNW Comments*"); *Comments of the Blooston Rural Carriers in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Blooston Comments*").

[7] Shirley Bloomfield, Chief Executive, National Telecommunications Cooperative Association, Letter to the Editor, *Rural Broadband*, N.Y. Times, February 28, 2011, *available at* http://www.nytimes.com/2011/03/01/opinion/l01broadband.html?scp=1&sq=rural%20telecom&st=cse ("We must remember that it is because of the current system that 95 percent of consumers have access to some form of broadband. Under the existing subsidy system, small, independent companies serving rural communities are the innovators that have made it possible for the global economy to reach remote areas, creating jobs, investment and opportunity."); *see also* Edwin B. Parker, *Closing the digital divide in rural America*, 24 Telecommunications Policy 281, 284 (2000) ("In general, the best rural service is provided by rural telephone cooperatives and small independent telephone companies that are eligible for construction loans from the Rural Utilities Service and cost reimbursement from the Federal Communication Commission's (FCC) high-cost fund.").

is a common, universal endeavor. Our success or failure as a society is inextricably intertwined, so we've invested in each other.

The Commission's *Transformation Order* alludes to this theory, but the details of implementation will determine whether the Commission is merely paying lip service to the universal availability of telecommunications. Grand goals, such as deploying broadband to high cost areas, come at a substantial cost. The Commission must square its goals with the economic reality that achieving significant progress requires substantial investment. As long as the Commission denies additional funding to support increased deployment of technology, the capped Universal Service Fund will be insufficient to serve a truly universal goal of broadband for all.[8]

B. The Commission's Quantile Regression Model Faces Nearly Universal Opposition In Light of Real and Immediate Danger It Poses to Rural ILECS.

Commenters soundly rejected the Commission's plan to use regression analysis to "limit reimbursable capital expenses and operating expenses for purposes of determining high-cost support for rate-of-return carriers."[9] As more became known about the Commission's intended use of regression analysis, opposition grew stronger and more vocal.[10] Even the Nebraska Rural

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8 *See* Byron Dorgan, *Dorgan: FCC Should Modify Rule Unfair to Rural America*, Roll Call, Feb. 2, 2012, *available at* http://www.rollcall.com/issues/57_89/byron_dorgan_fcc_should_modify_unfair_rule_rural_america-212062-1.html?pos=oopih ("[T]hese rules are likely to cause even bigger problems for the current customers of the small, rural telecoms that now provide services to the most rural areas... [T]here is nothing in the FCC plan that describes how it will build out high-speed service to rural areas after it has taken away the part of the USF that is needed to serve rural areas. In addition, the FCC rule also hurts those rural telecom companies that have already built the infrastructure to serve their rural customers.").

9 *See Transformation Order* at para. 214.

10 See, e.g. Cassandra Heyne, The FCC's Quantile Regression Analysis is Fatally Flawed, Period: Commenters Provide Dozens of Arguments Against QR, None in Favor, The Monitor:

Independent Companies, who proposed a regression analysis,[11] rejected the Commission's iteration.[12]

An application of regression analysis to rural and remote areas will undermine the financial stability of rural ILECs. Even commenters who support the stated goal of the Commission to establish benchmarks to limit investment and expense recovery, reject the Commission's current analysis.[13] "[T]he FCC's proposed methodology suffers from specification error; dependence on data sets that are not publicly available and may not be accurate, lack of verification of the regression equations; very low explanations of the variance of the dependent variable; unintended consequences that may provide incentives for carriers to

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Communications Industry News and Analyses (Feb. 7, 2012), http://www.jsicapitaladvisors.com/monitors/2012/2/7/the-fccs-quantile-regression-analysis-is-fatally-flawed-peri.html. "Basically, QR punishes RLECs financially by limiting incentives to make any investments; by making capital more difficult to obtain; and by pitting RLECs against other, unknown RLECs in a reverse-incentive "race to the middle." How does anyone benefit from this arrangement, exactly? Interestingly, there are virtually no comments in response to the FNPRM that support the use of the FCC's QR methodology." Id.

11 *See generally* Letter from Thomas Moorman, Counsel to Nebraska Rural Independent Companies, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337, GN Docket No. 09-51, Attach. (Nebraska Rural Independent Companies' Capital Expenditure Study: Predicting the Cost of Fiber to the Premise) (dated Jan. 7, 2011).

12 *See generally Comments of the Nebraska Rural Independent Companies in Response to Sections A Through K of the Further Notice of Proposed Rulemaking in the matter of Connect America Fund,* WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Nebraska Comments*"). "The proposed regression analysis is overly complex and the caps proposed in the *FNPRM* are not predictable and will not promote investment, they fail to provide sufficient support, and they should not be adopted as proposed." *Id.* at 9 (heading summarizing the NRIC position).

13 *See Comments of the National Association of State Utility Consumer Advocates, et al. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Consumer Advocates Comments*").

game the system or to choose to invest in an uneconomical set of facilities; and an inappropriate method for applying the results of the regression analysis."[14] To inflict the existing regression analysis on rural companies defies all logic and cannot be characterized as sound public policy.[15]

The ramifications of the proposed regression analysis on Alaska companies is particularly pronounced.[16] The application of new rules to limit recovery for legacy investment threatens the survival of ILECs serving the high cost customers in Remote Alaska.[17] As Copper Valley Telephone Company, based in Valdez, Alaska, pointed out, "It seems illogical to assert that Copper Valley has been placed in a similarly-situated peer group if one chooses to ignore topography, geology and climatic conditions that serve to create much higher than average costs for Copper Valley to operate."[18] The substantial loss of revenue that the current regression analysis will impose upon Copper Valley and the other rural ILECs in the ARC, particularly in light of their commitment to serving rural customers, stand in sharp contrast to the Commission's goals and the fundamental promise of Universal Service.

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14 *Id.* at 45.

15 *NECA Comments* at 65. "The *December 29 Petition for Reconsideration* demonstrated that the Commission should, as a matter of administrative law and good policy, reconsider its decision to adopt caps based upon a quantile regression analysis before fully analyzing and taking adequate comment on whether they are feasible and will serve their intended purpose." *Id.*

16 *See, eg., FNRPM Comments of Copper Valley Telephone Cooperative, Inc. USF Issues Section E. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Copper Valley Comments*").

17 *See ARC Comments* at 28; *ACS Comments* at 17.

18 *Copper Valley Comments* at 8.

III. Support for Mobile Broadband and Telephony Cannot and Should Not Supplant Vital Funding for Existing Legacy Networks.

The ARC companies have invested substantial resources, both public and private, into building and maintaining their legacy networks. The regulatory reform introduced by the Commission in the *Transformation Order* and the implementation issues currently under consideration fail to provide any certainty about whether adequate support will be available to maintain those networks, let alone to create the additional investment necessary to connect those broadband-capable legacy networks to the Internet backbone.[19] The ARC joins most rural telephone companies across the United States in expressing concern that the Commission's focus on mobile services will abandon legacy networks through inadequate support for maintenance.[20]

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19 *See supra* note 4; *see also* Open Letter from David J. Villano, Assistant Administrator, Telecommunications Program, Rural Utilities Service, USDA (Feb. 3, 2012), *available at* http://www.rurdev.usda.gov/supportdocuments/LetterReInfrastructureLoanApps.pdf.

20 *See, e.g., NECA Comments* at 3-4 ("Without exception, the Commission's actions with respect to RLECs are negative – and clearly and unmistakably presented as such."); *Comments of Calaveras Telephone Company in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2011) ("*Calaveras Comments*") at 11 ("Calaveras Telephone Company is very concerned for the ongoing ability to meet customer demands and maintain its present level of service quality in light of the significant changes outlined in proposed new FCC rules."); *Comments of the Public Service Commission of Wisconsin in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 13, 2012) ("*Wisconsin Comments*") at 10 ("The PSCW has heard from some Wisconsin providers that this amount of support [$2.05b allocated to rural support] may be insufficient to both maintain existing networks and build out new networks to un-served customers."); *Comments in Response to Further Notice of Proposed Rulemaking by the Washington Independent Telecommunications Association, et al. in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Washington Comments*") at 1 ("The unintended outcome will mean that rural customers will not be able to access broadband services as envisioned by the Commission in Rural America.").

A. Remote Alaska Depends on Traditional Telephony For Essential Communications Services.

GCI's Comments declare that ILEC wireline services "are not likely to produce meaningful expansion of fixed broadband services."[21] The ARC objects to GCI's characterization that ILEC wireline services are the problem in the remote areas of Alaska. The rural ILECs' last mile networks can already meet the FCC's new standards for broadband service. As all Alaskan parties have repeatedly commented in this proceeding, the major obstacle for broadband deployment in Alaska is access to sufficient, affordable middle mile capacity. The ARC shares GCI's concern that the funding mechanisms described in the *Transformation Order* fail to provide adequate support to maintain legacy networks and build the critical middle mile facilities needed to connect Remote Alaska.[22] Contrary to GCI, the ARC does not believe that the Commission should resign itself to perpetuating a second class of Americans that don't deserve the funding necessary to provide them with the broadband connectivity taken for granted in urban areas.[23]

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21 *GCI Comments* at 9.

22 *ARC Comments* at 4-5.

23 Matt Hamblen, *FCC Says 93M in US lack broadband, digital divide grows*, Computerworld (Feb. 10, 2010), http://www.computerworld.com/s/article/9160738/FCC_says_93M_in_U.S._lack_broadband_digital_divide_grows (""In the 21st century, a digital divide is an opportunity divide... job creation and American competitiveness abroad require that 'all Americans have the skills and means to fully participate in the digital economy.'"); *see also* Songphan Choemprayong, *Closing Digital Divides: The United States' Policies*, 56 Libri 201 (2006) ("Since the emergence of information technology, the gap between information 'haves' and 'have-nots' has been broadening: the information rich become richer, while the information poor are poorer.").

GCI embraced the Commission's *Transformation Order's* vision of a future where mobile communications dominate the market.[24] Unfortunately, that vision is not realistic for Remote Alaska.[25] The record contains voluminous evidence of Alaska's unique characteristics and they won't be repeated here, but the things, like geography and diverse population, that set Alaska apart from the rest of the country also underscore the need to prioritize the legacy network.[26] Essential connectivity with the world will be best accomplished through continued investment in wireline service, not a fundamental shift to wireless service for Alaskans.

Several commenters echoed the ARC's concern about the potential for substantial amounts of stranded investment based on the compensation structure articulated in the *Transformation Order*.[27] Recently, the Rural Utility Service ("RUS"), a critical rural lender,

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24 *Transformation Order* at para. 5. *See also generally GCI Comments.*

25 *RCA Comments* at 2-3 ("The FCC has heard it many times: Alaska is different. Our vast size, small population, extreme weather and landscapes, and high costs have been described in numerous filings."); *ACS Comments* at 3, n. 4 ("Almost everything about providing communications services in Alaska is unique and sets its service providers apart from what other carriers across the country experience."); *ARC Comments* at iii-iv ("Small rural carriers could not survive a regime where competitors can cherry pick the most profitable areas to serve and leave the ETCs with the highest cost areas and an insufficient funding bases. This is especially true in Alaska where areas are unconnected and sparsely populated."); *GCI Comments* at 2-4 ("Alaska is a uniquely high-cost area within which to provide any telecommunications, whether traditional telephony, mobile or broadband. Much of remote Alaska lacks even the basic infrastructure critical to most telecommunications deployment, such as a road system and an intertied power grid.").

26 *ARC Comments* at 10 ("Alaska's history and geography is unique…serving unconnected, sparsely populated areas."); *RCA Comments* at 4 ("All across America utilities plan for contingencies, but in Alaska, when things don't go according to plan, the repercussions can be serious.").

27 *Moss Adams Comments* at 8 ("Because cost recovery in this scenario is not predictable, it is highly likely that rural carriers will not invest in future capital expenditures.").

revised its funding requirements.[28] In response to the great uncertainty surrounding high cost support, the RUS created a new obligation requiring loan applicants to submit a detailed five year revenue projection that must be certified in writing by a cost consultant. It is difficult to imagine that any rural company could predict with sufficient accuracy the level of high cost support it will receive over the next five years. By setting the bar so impossibly high, the availability of needed capital to invest in new network deployments will be scarce for rural companies. The position of RUS is understandable, if frustrating, in light of the billions of dollars it has lent rural companies to build and maintain necessary network infrastructure. High cost support was an essential element of rural telephone companies' revenues. The ability to repay existing loans as high cost support diminishes in Remote Alaska remains an open question, especially since continued support depends on additional investment to meet the broadband benchmarks.

B. Funding For Broadband in Remote Alaska Should Not Be Limited to Mobile Services.

The Regulatory Commission of Alaska ("RCA"), GCI, ACS and the ARC agree that the funding currently anticipated from the CAF and Remote Areas Fund may not be sufficient to meet the broadband benchmark of 4Mbps downstream and 1Mbps upstream in Remote Alaska.[29] Alaska carriers differ on the appropriate approach to allocate adequate funds to Alaska carriers and the technology best suited to deliver broadband to Alaskans living and working in remote

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28 Open Letter from David J. Villano, Assistant Administrator, Telecommunications Program, Rural Utilities Service, USDA (Feb. 3, 2012), *available at* http://www.rurdev.usda.gov/supportdocuments/LetterReInfrastructureLoanApps.pdf.

29 *See RCA Comments* at 18; *GCI Comments* at 2; *ACS Comments* at 19.

Alaska.[30] In an ideal world, adequate funding would exist for all technology platforms in Alaska.

The ARC is concerned that comments made by GCI suggest a dominant role for mobile broadband in Remote Alaska, seemingly to the detriment of existing networks capable of providing fixed broadband.[31] GCI's argument could be understood to place blame for the lack of robust broadband on the rural ILECs serving remote Alaska.[32] "[B]efore underfunding necessary first-time mobility services in many communities, the Commission needs to look at funding levels where the ILEC wireline services have not produced, and thus, are not likely to produce, meaningful expansion of fixed broadband services."[33] Quite to the contrary, the rural ILECs, all of whom joined the ARC, have deployed last mile technology capable of meeting and even exceeding the Commission's broadband benchmark. Both fixed and mobile broadband depend on the construction and cost-based access to expensive middle mile facilities. Wireline facilities provide the most robust, reliable access to broadband for Remote Alaska and merely need access to sufficient and affordable middle mile capacity to begin offering broadband service.

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30 GCI favors enhanced investment in mobile deployment. *See GCI Comments*. The ARC advocates for increased access and construction of middle mile facilities and support for maintenance of legacy wireline networks. *See ARC Comments*.

31 *See GCI Comments* at 9.

32 *Id.*

33 *Id.*

The ARC does not dispute the role that mobile broadband can play in modern life and in reality already plays in urban life.[34] In this era of increasingly scarce resources, to deploy technology in very high cost areas, priorities must be carefully weighed. Put simply, the Commission's goals for broadband deployment cannot be as well met by mobile technology.[35] The technological requirements needed for distance learning and telemedicine must be provided over a terrestrial network.[36] If a decision must be made whether to invest in a terrestrial middle mile project or attempt to extend 3G and 4G service into remote Alaska, the ARC strongly believes the Commission should prioritize middle mile facilities. It is undisputed that even the wireless technology that GCI wants to build requires a terrestrial middle mile for adequate backhaul facilities.

IV. Middle Mile Facilities Supported by Federal Funds Should Be Available on a Regulated, Common Carrier Basis.

Access to middle mile facilities on a non-discriminatory basis, at a price grounded in actual costs, will determine whether or not Remote Alaska will participate in the digital revolution.[37] Most villages in Remote Alaska are served by an ILEC whose local network is

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34 Carl Weinschenk, *Smartphones—at Least Some Types—Continue to Rise*, IT BusinessEdge (Feb. 7, 2012), http://www.itbusinessedge.com/cm/blogs/weinschenk/smartphones-at-least-some-types-continue-to-rise/?cs=49711.

35 *GCI Comments* at 5 ("Advanced telemedicine, distance learning, and other many enterprise broadband services will require the deployment of terrestrial middle-mile facilities: satellite services cannot support applications that tolerate only very low latency."); *see also* Abhishek Shukla, *7 Reasons Why Tablets or Smartphones Can't Replace Laptops*, TECHiFire (Jan. 16, 2012), http://www.techifire.com/gadgets/phones/7-reasons-why-tablets-or-smartphones-cant-replace-laptops/.

36 GCI acknowledges that the latency and capacity of satellite facilities cannot provide adequate broadband to provide the products prioritized by the Commission.

37 *See generally ACS Comments* at 6.

ready to provide robust broadband service. The ARC agrees with the Tanana Chiefs Conference[38] that the largest barrier to providing broadband is the lack of accessible, affordable terrestrial middle mile facilities.[39]

A. No Incentive to Build Duplicative Middle Mile Where Access To Existing Facilities Is Cost-Based.

GCI argues that duplicative middle mile construction fails to serve the public interest.[40] GCI asserts that "[s]upporting RoR LEC investment in the middle mile through a rate-of-return mechanism creates a bias in favor of construction of such facilities."[41] GCI further asserts that allowing recovery of middle mile investment in the rate-of-return would incentivize carriers to build duplicate transport facilities.[42] The ARC suggests that one company's bias is another's leveling of the playing field, but ultimately the ARC highlights that GCI's own pricing of its

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38 *See Tanana Chiefs Conference Comments, Report and Order and Further Notice of Proposed Rule Making: Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 17, 2012) ("*Tanana Chiefs Conference Comments*") at 1-2. "None of the rural TCC communities have access to acceptable broadband services delivered by robust terrestrial middle mile infrastructure, a fact that impacts the economic, physical and educational well-being of these rural communities." *Id.*

39 The TERRA-SW Project promises robust broadband, but unfortunately it is only available to the customers of UUI, a wholly-owned subsidiary of GCI, and GCI. The lack of a cost-based price precludes rural carriers from accessing the middle mile facility. *See Opposition of Alaska Communications Systems Group, Inc., in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Feb. 9, 2012) ("*ACS Opposition*") at 5, n. 8 ("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.").

40 *GCI Comments* at 29-30.

41 *Id.* at 29.

42 *Id.* at 30.

middle mile facilities represents a stronger incentive for duplicate facilities than a revenue recovery mechanism.

GCI and the ARC agree that the scarce resources available to support broadband deployment should be put to their best use.[43] GCI fails to appreciate the sheer audacity of its ardent advocacy for an overtly anti-competitive policy for allocation of those funds.[44] GCI believes that the Commission should create a monopoly of middle mile transport to "foster efficient use of USF dollars."[45] After years of overbuilding LEC networks with federal USF dollars, the idea that GCI, a non-regulated company, should be awarded an unsupervised monopoly in middle mile transport can only be called ridiculous. GCI assigned its crown jewel of middle mile transport, the TERRA-SW Project, an astronomical, arbitrary price which currently precludes any other company from participating in the benefit it promised to deliver to Remote Alaska.[46]

The ARC does not dispute the wisdom of extending terrestrial middle mile instead of building duplicate facilities, but as the regulatory environment has dramatically changed to require broadband deployment, so too should the regulatory treatment of the facilities be changed to reflect a new reality. When monopoly control of local exchange facilities impeded competition, Congress gave the Commission authority to intervene. That legislation laid the foundation for the Commission to regulate middle mile facilities and require them to be offered at reasonable, cost-based rates. In a packet-based world, data must traverse networks. To allow

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43 *ARC Comments* at 10; *GCI Comments* at 31-32.

44 *GCI Comments* at 31-32.

45 *GCI Comments* at 31.

46 *ARC Comments* at 6.

middle mile facilities to go unregulated creates an unacceptable bottleneck in the system. To effectively implement the Commission's broadband benchmark, it must open the door to this last monopoly facility and allow for regulation of middle mile facilities that are critical to the deployment of broadband in rural areas.

B. Middle Mile Access and Construction Is Appropriate to Recover Through a Rate-of-Return Ratebase.

GCI points out that the *FNPRM* does not provide a consistent approach to the recovery of middle mile costs.[47] The ARC believes that access to terrestrial middle mile represents the linchpin to providing the broadband service required by the Commission. Providing as many different incentives and mechanisms to encourage construction and recover the costs of access creates multiple tools for carriers to achieve the goal of 4Mbps upload and 1Mbps download to Remote Alaska.

The ARC believes that allowing a Rate-of-Return carrier to opt to recover its costs by including access and construction costs in its revenue requirement makes sense. It is likely that this may be a last option for a rural carrier, but it may be a necessary tool when other funding fails to materialize. An opportunity to attempt to recover investment represents an important benefit of being a regulated entity.

V. <u>If Mobility Fund Phase II Implementation Favors the Largest Carriers, a Monopoly Market Will Develop</u>.

The ARC agrees with other Alaska carriers that the deployment of mobile technology in Remote Alaska will be a very expensive proposition.[48] As discussed above, the ARC believes that the extension of mobile technology should not displace essential support for construction

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47 *See GCI Comments* at 28.

48 *See, e.g., GCI Comments* at 7-9.

and access to middle mile facilities, for maintaining existing network infrastructure or for fulfilling existing financial obligations incurred to construct legacy networks. GCI suggests that substantial support earmarked for Remote Alaska should be allocated to mobile deployment in a manner that "need not negatively impact the Commission's top-line USF budget."[49] The ARC urges the Commission to disregard this approach that favors only mobile deployments. Robbing Peter to pay Paul would likely leave Alaskans without sufficient fixed or mobile broadband to achieve the Commission's goals.

The ARC concurs with GCI that the actual amount of investment needed to extend wireless service, even at a 2G level into Remote Alaska is currently unknown.[50] Without an informed understanding of what investment is necessary, it will be difficult to accurately assess what mechanism would best deliver the needed funds to Alaska. The record before the Commission will have to be supplemented by additional data and cost models before a robust analysis can be provided to the Commission on this option.

A. Competitive Bidding Mechanisms Will Shape the Future of Telecommunications in Alaska.

GCI urges the Commission to make sure that support is "properly targeted" to avoid "isolated, subscale 'island' networks."[51] Since isolated networks are incapable of providing broadband, the ARC doesn't disagree with the premise, but GCI's argument favors investment only in large companies capable of building a statewide mobile infrastructure, which skews any

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49 *GCI Comments* at 9.

50 *GCI Comments* at 11-12. "Thus, before the Commission can determine whether and how much Mobility Fund Phase II support should be set aside for service to Remote Alaska, it must make some assessment of the anticipated costs." *Id.*

51 *GCI Comments* at 16.

support toward large companies like GCI. This position ignores the essential element of terrestrial middle mile, which is critical to connect existing, broadband ready ILEC networks and will be necessary to provide the mobile broadband proposed by GCI. Investing disproportionate funds in mobile technology is of limited use without the backhaul necessary to connect end users to the Internet backbone. GCI's argument also ignores the issue raised by the ARC in its January 18 Comments, that the "at-scale deployments" touted by GCI are not regulated and will not benefit all Alaskans, only GCI's customers. The ARC could be more supportive of GCI's view if its networks were subject to common carrier obligations and offered at nondiscriminatory, cost-based prices.

GCI specifically argues that small businesses should not be eligible for a reverse bidding credit.[52] GCI appears worried that allowing small rural carriers to participate in reverse auctions will somehow disadvantage GCI and its ability to build ubiquitous networks in Alaska. GCI cites no actual evidence that investing in rural infrastructure by small businesses would disadvantage Alaskans or tribal areas. It relies on assertions that only carriers capable of substantial economies of scale, namely itself, can provide a statewide network that could serve Remote Alaska. GCI laments in its comments that providing reverse bidding credits to small businesses would foster "island" operations doomed to connect through roaming. Perhaps without a regulatory solution allowing all carriers to utilize important middle mile facilities built with public funds, there is some truth to that argument, but surely the answer is not to reward a monopoly carrier with a stronger monopoly capable of depriving rural carriers and their customers from the critical connection to the rest of the world.

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52 *GCI Comments* at 16-17.

B. Mobility Fund Support Should First Go to Areas Not Served by the National Highway System.

The ARC agrees with GCI that as Mobility Fund support is allocated, the Commission should prioritize areas not served by the National Highway System ("NHS").[53] Most of Remote Alaska lacks access to the NHS and directing support to those areas brings needed infrastructure to areas where no business case can be made for deployment. It must be noted that to provide robust wireless service, there must be access to a strong middle mile facility, which is sorely lacking in most of these areas.

The ARC urges the Commission to use caution in allocating a disproportionate amount of funding to mobile deployment. Although GCI discusses the benefits of mobile service in great detail, those benefits are only provided on a 3G or 4G network, which require a terrestrial middle mile to perform most of the functions mentioned.[54]

VI. Remote Areas Fund Must Support Construction and Access to Critical Middle Mile Facilities.

The ARC found no persuasive support for using the Remote Areas Fund to create a direct consumer subsidy.[55] Putting a little money in the hands of consumers will not solve the larger

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53 *GCI Comments* at 17-18.

54 *GCI Comments* at 18. For example, GCI talks about the vital role mobile service may play in an emergency situation, but if a "person whose snow machine breaks down in the middle of a frozen snowpack" needs rescue, it is unlikely that a 2G wireless network will provide adequate connectivity to summon help. *Id.*

55 *See Transformation Order* at paras. 1125-26; *see also ARC Comments* at 29-30; *Comments of the Wireless Service Providers Association* ("WISPA") *in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*WISPA Comments*"); *Comments of the Satellite Broadband Providers in the matter of Connect America Fund*, WC Docket No. 10-90, Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, before the FCC (Jan. 18, 2012) ("*Satellite Broadband Comments*").

problem of inadequate middle mile facilities to connect Remote Alaska to the existing Internet backbone. A consumer "voucher" can only serve a useful purpose where there is effective broadband service to purchase. The ARC wholeheartedly agrees with the Tanana Chiefs Counsel that the Remote Areas Fund must focus on construction and access to middle mile facilities.[56] "TCC suggests that Remote Area Funds be targeted generally toward middle-mile infrastructure deployments, as middle-mile backhaul will most likely be the biggest barrier to meeting the Commission's objectives in extremely remote areas."[57]

The Wireless Internet Service Providers Association ("WISPA")[58] and the Satellite Broadband Provider[59] support the use of a voucher system to defray costs of connecting customers to broadband. That position is inconsistent with the reality of existing middle mile facilities in the areas likely to receive support through the Remote Areas Fund, particularly Remote Alaska. Implementing a process for customers in Remote Alaska to apply for, receive and redeem vouchers would be an administrative nightmare, since it would all have to be accomplished manually given the lack of broadband in those areas. The ARC rejects WISPA's assertion that WISPs are "best positioned to provide broadband service to remote areas."[60] Without adequate investment in middle mile facilities, WISPs are no better positioned than traditional wireline or wireless carriers to provide broadband service.

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56 *See Tanana Chiefs Conference Comments* at 8.

57 *Id.*

58 *See WISPA Comments* at 9. "[B]y administering the process for consumers to apply for a voucher, the Commission would be able to ensure that the customer resides in a defined remote area and would be receiving a direct benefit." *Id.*

59 *Satellite Broadband Comments* at 8-9.

60 *WISPA Comments* at 11.

VII. Conclusion.

The Alaska telecommunications carriers differ on several key points and the advocacy presented to the Commission naturally casts reform mechanisms in a light most beneficial to a particular carrier or type of carrier. The most consistent theme running through all of the comments related to the *Transformation Order* is a deep concern that the support allocated to Alaska will be insufficient to meet the needs of Alaskans.[61]

The ARC believes that universal service must serve its historic, bedrock principle of serving Americans in high cost areas that would otherwise do without modern telecommunications services. Without the necessary support, no carrier, large or small, rural or urban, can provide adequate service to people in Remote Alaska. The *Transformation Order* espouses a noble goal of bringing broadband to rural America, but without the commitment to pay for it, the promise of advanced services rings hollow. The ARC ardently hopes the Commission will implement rules that will allow Alaska carriers to work together to bring fixed and mobile broadband to Remote Areas.

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61 *See GCI Comments*; *ACS Comments*; *RCA Comments*.

Respectfully submitted on this 17th day, February 2012.

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