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April 13, 2012

Ex Parte

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

Re: *Connect America Fund,* WC Docket No. 10-90; *A National Broadband Plan for Our Future,* GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers,* WC Docket No. 07-135; *High-Cost Universal Service Support,* WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime,* CC Docket No. 01-92

Dear Ms. Dortch:

On behalf of General Communication Inc. ("GCI"), I am filing this ex parte to clarify some points with respect to the portion of GCI's petition for reconsideration of the *CAF Order*[1] that asks the FCC to include all CETCs serving Remote Alaska within the Remote Alaska mechanism, as modified by the ex parte letter filed on March 7, 2012.[2] This letter demonstrates that GCI's modified proposal both increases incentives to invest in unserved and underserved areas, while at the same time having no predictable impact – positive or negative – on the budget "score" underlying the *CAF Order*. *This last point bears repeating – while GCI's initial proposal on reconsideration predictably would have increased Remote Alaska support by approximately $12 million over the first two years, GCI's modified proposal has* <u>*no*</u> *predictable scoring impact.* Although the Remote Alaska cap increases by approximately $20 million, total Remote Alaska support disbursements do not increase by a like amount; in fact, they will likely be approximately the same as under the current rule, with small variations that could be positive or negative.

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1 C*onnect 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; 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, 26 FCC Rcd. 17663, FCC 11-161 (2011) ("*CAF Order*").

2 *See* Petition for Reconsideration of General Communication, Inc., WC Docket Nos. 10-90 et al. (filed Dec. 23, 2011); Letter from John Nakahata, counsel, General Communication, Inc., to Marlene Dortch, Secretary, Federal Communications Commission, WC Dockets 10-90 et al. (filed Mar. 7, 2012).

GCI's petition on this point has always sought to better carry out the purposes of the Remote Alaska mechanism as outlined in paragraph 529 of the *CAF Order*: *"to preserve newly initiated services and facilitate additional investment in remote communities in still unserved and underserved areas during the national transition to the Mobility Funds."* As proposed and modified by GCI, *all* CETC support in Remote Alaska would be distributed on a per-line basis, not only the support received by CETCs that certified that they were serving Covered Locations ("Certifying CETCs"). The amount of support per line used to calculate a CETC's support would, as it did on December 28, 2011, vary depending on whether the CETC was a Certifying CETC, with Certifying CETCs receiving more per line than a non-Certifying CETC.[3] However, Remote Alaska support would be capped, with the base period support of *all* Remote Alaska CETCs (Certifying and non-Certifying) used to initialize the cap. To the extent Remote Alaska support would exceed the cap, however, the per-line support of *all* CETCs, whether Certifying or non-Certifying, would be subject to a reduction factor. Furthermore, as modified by GCI's March 7, 2012 ex parte, a non-Certifying CETC would still have its support subject to the generally applicable five-year phase down percentage beginning July 1, 2012, pursuant to 47 C.F.R. §54.307(e)(2).

The attached simulation demonstrates that GCI's proposed rule increases both the potential reward for investing in Remote Alaska and the potential loss of support for failing to do so. This simulation sets up a hypothetical Remote Alaska market of 3 CETCs, consisting of two Certifying CETCs and one non-Certifying CETC. Scenario 1 shows the baseline result for July 1, 2012 to June 30, 2013 under the current rule and GCI's proposed rule. Assuming that each CETC's line count remains constant in every Remote Alaska study area, a Certifying CETC receives the same amount it did in 2011, and the non-Certifying CETC receives 80% of what it received in 2011, under either the current rule or GCI's proposed rule.

Scenario 2 shows that a Certifying CETC that invests in extending services in unserved and underserved areas will receive more USF support for doing so under GCI's proposed rule than under the current rule, thus providing additional incentive to make those investments. In this scenario, a single Certifying CETC (Company A) invests and increases the amount of its preliminary support (*i.e*., the number of lines served times the support per line) by $6 million. As a result of this investment, the CETC receives more support under GCI's proposed rule than under the current rule. Importantly, the non-Certifying CETC's (Company C's) failure to invest or otherwise attract new customers results in it receiving less support than under the current rule; the current rule provides the same amount of aggregate support to the non-Certifying CETC regardless of how many, or how few, lines it serves.

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[3] Only CETCs that certified that they were serving Covered Locations could qualify for the tribal lands exception to the 2008 CETC Interim Cap. *See 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, 23 FCC Rcd. 8834, FCC 08-122 (2008) ("*Interim Cap Order*").

Scenarios 3 and 4 demonstrate that GCI's proposed rule increases the risk of not investing in extending service or other means of attracting new customers for all Remote Alaska CETCs. Scenario 3 shows that if the non-Certifying CETC (Company C) invests and increases its preliminary support calculation by $6 million, it would substantially increase the support it actually received, while reducing the support received by the other two CETCs. Notably, in this scenario, the total support disbursed for service in Remote Alaska is actually lower than under the current rule. This shows that GCI's proposed rule creates a larger risk from failing to invest than the current rule because the Certifying CETCs' support is influenced by the actions of the non-Certifying CETC.

Scenario 4 shows that a Certifying CETC must grow proportionately faster than the non-Certifying CETC in order to keep from losing support, which further reinforces the investment incentive. Under Scenario 4, both Company A (a Certifying CETC) and Company C (the non-Certifying CETC) invest and increase their preliminary support calculation by $3 million each. However, because $3 million is a larger percentage growth for Company C than Company A, Company A's increase in support is smaller than under the current rule, although higher than the result if neither company had invested (*i.e.*, more than it would have received under either rule in Scenario 1).

These scenarios also show that GCI's proposed rule has no predictable budget "scoring" impact. It is no more likely that total support disbursed to Remote Alaska will increase under GCI's proposed rule than that it will decrease. Indeed, Scenarios 3 and 4 both depict circumstances in which total support disbursed to Rural Alaska will fall, rather than rise. Because there is no systemic skew, and the actual result depends on how all Remote Alaska CETCs compete and grow vis-a-vis one another, the most reasonable conclusion is that GCI's proposal has a $0 budget "score."

This ex parte letter summarizes and supplements the discussion I had with Michael Steffen, Legal Adviser to the Chairman, on April 12, 2012, and with Patrick Halley, Legal Adviser to the Bureau Chief, Wireline Competition Bureau, on April 11, 2012.

Sincerely,

John T. Nakahata
Counsel to General Communication, Inc.

cc: Michael Steffen
Patrick Halley
Joe Cavender
Christine Kurth
Angela Kronenberg

REMOTE ALASKA SUPPORT SIMULATION FOR INCLUDING ALL REMOTE ALASKA CETCS - CURRENT RULES V. GCI RECONSIDERATION PROPOSAL AS MODIFIED MARCH 7, 2012

Baseline Assumptions						
	Company A	Company B	Company C	Current Rule Remote Alaska Cap (in thousands)	Recon Proposal Remote Alaska Cap (in thousands)	Total Support Remote Alaska (in thousands)
Covered Locations Certification	Yes	Yes	No			
2012 Phase-Down Reduction for Non-Certifying CETCs	N/A	N/A	80%			
2011 Distributed Support and Resulting Cap (in thousands)	$ 35,000.00	$ 35,000.00	$ 20,000.00	$ 70,000.00	$ 90,000.00	

Alternate Scenarios						
	Company A (total annual support in thousands)	Company B (total annual support in thousands)	Company C (total annual support in thousands)	Current Rule Cap Reduction factor	Recon Proposal Cap Reduction Factor	
Scenario 1 - No changes in line counts or average 12/28/11 support per line						
2012 - Preliminary (lines x per line support)	$ 35,000.00	$ 35,000.00	$ 20,000.00	100.00%	100.00%	
2012 - Final (current rule)	$ 35,000.00	$ 35,000.00	$ 16,000.00			$ 86,000.00
2012 - Final (proposed rule)	$ 35,000.00	$ 35,000.00	$ 16,000.00			$ 86,000.00

	Company A (total annual support in thousands)	Company B (total annual support in thousands)	Company C (total annual support in thousands)	Current Rule Cap Reduction factor	Recon Proposal Cap Reduction Factor	
Scenario 2 - Company A adds 100,000 lines at $60 per annum per line in 12/28/11 support ($6 million total per year above Scenario 1)						
2012 - Preliminary (lines x per line support)	$ 41,000.00	$ 35,000.00	$ 20,000.00	92.11%	93.75%	
2012 - Final (current rule)	$ 37,763.16	$ 32,236.84	$ 16,000.00			$ 86,000.00
2012 - Final (proposed rule)	$ 38,437.50	$ 32,812.50	$ 15,000.00			$ 86,250.00
Scenario 3 - Company C adds 100,000 lines at $60 per annum per line in 12/28/11 support ($6 million total per year above Scenario 1)						
2012 - Preliminary (lines x per line support)	$ 35,000.00	$ 35,000.00	$ 26,000.00	100.00%	93.75%	
2012 - Final (current rule)	$ 35,000.00	$ 35,000.00	$ 16,000.00			$ 86,000.00
2012 - Final (proposed rule)	$ 32,812.50	$ 32,812.50	$ 19,500.00			$ 85,125.00
Scenario 4 - Companies A and C each add 500 lines at $6 per annum per line in 12/28/11 support ($3 million total per year added to each of A and C above Scenario 1)						
2012 - Preliminary (lines x per line support)	$ 38,000.00	$ 35,000.00	$ 23,000.00	95.89%	93.75%	
2012 - Final (current rule)	$ 36,438.36	$ 33,561.64	$ 16,000.00			$ 86,000.00
2012 - Final (proposed rule)	$ 35,625.00	$ 32,812.50	$ 17,250.00			$ 85,687.50