

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

| | | |
|---|---|-------------------------------------|
| <i>In the Matter of</i> |) | |
| |) | |
| Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area |) | WT Docket No. 12-40 RM No. 11510 |
| |) | |
| Amendment of the Commission’s Rules with Regard to Relocation of Part 24 to Part 27 |) | |
| |) | |
| Interim Restrictions and Procedures for Cellular Service Applications |) | |

COMMENTS OF GENERAL COMMUNICATION, INC.

I. Introduction and Summary.

General Communication, Inc. (“GCI”) files these comments in response to the above-captioned Notice of Proposed Rulemaking and Order (“NPRM”), which considers converting site-based cellular licenses into geographic market-area licenses.¹ As the Federal Communications Commission (“FCC” or “Commission”) recognizes, this action will forever change the FCC’s successful unserved area license program, which has contributed greatly to expanding wireless service in rural America. GCI relies heavily on unserved area licenses to serve the most remote villages in Alaska, so its comments will focus on how to preserve this important program while advancing the Commission’s stated policy goals.

¹ *Amendment of Parts 1 and 22 of the Commission’s Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area*, Notice of Proposed Rulemaking and Order, WT Docket No. 12-40 (rel. Feb. 15, 2012) (“NPRM”).

As an initial matter, the FCC should not eliminate the unserved area license program, which remains a powerful tool for bringing wireless service to rural America,² particularly Alaska. Any suggestion that unserved area licenses are obsolete for rural expansion efforts is simply incorrect.³ GCI continues to rely on unserved area licenses to expand wireless service across rural Alaska. That will remain the case well into the foreseeable future, as recent Universal Service Fund (“USF”) reforms have created uncertainty with regard to deployment timetables and locations.⁴

GCI commends the Commission for specifically recognizing the special conditions present in Alaska and considering retention of site-based licensing and preservation of the unserved area license tool in Alaska.⁵ As the FCC has recognized in the past, sparse and shifting populations, vast distances, the lack of roads, a short construction season, and extremely expensive deployment costs make wireless deployment substantially different in Alaska, compared to any other part of our country. These differences result in unique difficulties for companies seeking to expand to cover new communities. The unserved area license program provides carriers with a very useful, flexible, and efficient manner of securing the spectrum rights they need as they work to overcome these challenges and serve rural Alaskans’ needs. Conversely, Alaska’s situation renders unworkable a geographic market-area system and overlay auction, which would increase carrier costs and reduce critical flexibility.

Permanently retaining site-based licensing in Alaska therefore best serves the public interest by promoting rural deployment. If the FCC nonetheless eliminates the unserved area

² *Id.* ¶ 1.

³ *See* Petition for Rulemaking of CTIA, RM-11510 (filed Oct. 8, 2008).

⁴ *See infra* pp. 6-7.

⁵ NPRM ¶ 38.

license program in Alaska and imposes an auction, it should include the Alaskan Cellular Market Areas (“CMA”) blocks in the proposed Stage II transition, and should recognize the unique difficulties associated with build-out in the State by creating a two-year build-out requirement, based on population rather than geographic coverage.

II. GCI Relies Heavily on the Unserved Area License Program To Expand Wireless Service in Rural Alaska.

As the Commission recognizes, the current site-based licensing system has proven successful, bringing widespread service to the public, especially in rural America.⁶ This is particularly true in Alaska, which has the most difficult wireless build-out environment in the country.

A. Carriers Expanding Wireless Service in Alaska Face Unique Challenges.

Alaska presents carriers with truly unique challenges. First, Alaska is immense. Covering 570,627 square miles, Alaska is twice the size of Texas and four times the size of California.⁷ Vast distances separate its rural villages, making wireless backhaul extremely difficult. In fact, most villages still backhaul through expensive satellite links.

Second, despite its size, Alaska’s population is only approximately 710,000, resulting in the lowest population density in the country at 1.2 people per square mile.⁸ Even Alaska’s metropolitan centers are small in comparison to national standards.⁹ Outside of Alaska’s three

⁶ *Id.* ¶ 20.

⁷ See U.S. Census Bureau, *Guide to State and Local Geography, Alaska*, http://www.census.gov/geo/www/guidestloc/st02_ak.html. See U.S. Census Bureau, *Guide to State and Local Geography*, http://www.census.gov/geo/www/guidestloc/guide_main.html (for information on Texas and California, available from the menu at the bottom of the page).

⁸ United States Census Bureau, *Guide to State and Local Geography, Alaska*, http://www.census.gov/geo/www/guidestloc/st02_ak.html.

⁹ Anchorage has approximately 387,000 people, ranking 133rd nationally. Fairbanks has approximately 99,000 people, ranking 343rd, and Juneau has approximately 32,000 people,

largest cities and surrounding communities, Alaska's population is located in regional centers surrounded by small villages. These regional population centers are particularly small, with important towns like Barrow and Nome home to only approximately 4,000 and 3,500 people, respectively.¹⁰ Low population densities and highly dispersed villages make wireless network design very difficult and the cost per subscriber very high.

Third, populations in rural Alaska fluctuate seasonally, with some areas growing by multiples in the summer season, only to dramatically shrink thereafter. Furthermore, geographic areas demanding wireless service can emerge unexpectedly or shift, as the location of economic activity changes. This is particularly true of mining communities. As a result, GCI faces complex network design challenges, and must also frequently change the location of, or add to, its facilities, requiring license modifications or new licenses.

Fourth, most interior communities are not connected by roads. Alaska's lack of roads makes it impossible to use road rights-of-way to lay fiber.¹¹ About 200 rural communities lay beyond the road system and are accessible only by airplane, boat, or snow machine. Additionally, Alaska's harsher and longer winters mean that construction is not permitted or even possible between approximately October and April, and any telecommunications equipment must withstand extreme conditions. These unique conditions require GCI to make significantly

ranking 811th out of 942 cities. See U.S. Census Bureau, *Metropolitan and Micropolitan Statistical Areas*, <http://www.census.gov/popest/data/metro/totals/2011/index.html> (see "Estimates of Population Change for Metropolitan Statistical Areas and Rankings" for information on Anchorage and Fairbanks, and "Estimates of Population Change for Micropolitan Statistical Areas and Rankings" for information on Juneau).

¹⁰ See U.S. Census Bureau, *American Fact Finder*, <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (search for "Barrow" and "Nome" as a "Place within State" of Alaska, in the pop-up menu).

¹¹ Similarly, pipelines and rail systems are limited, running only up the center of the State south to north.

larger investments to transport equipment to a new location, and to budget far more time to construct new projects compared to companies elsewhere in the country.

B. Unserved Area Licenses Help Alaskan Carriers Overcome the State's Unique Build-Out Challenges.

The unserved area licensing program has proven to be a valuable and flexible tool, helping GCI to overcome the State's unique challenges and serve rural Alaskans. The company has used unserved area licenses to build infrastructure in smaller and more remote communities each year, even where these villages were separated by hundreds of miles and were not served by roads. Unserved area licenses have allowed GCI to actively use spectrum with excellent propagation characteristics that otherwise sits unused.

GCI and its affiliates now serve more than 70 rural Alaskan communities via unserved area licenses in Alaska. This expansion has brought wireless service to remote communities such as Fort Yukon, Tanana, and Iliamna, with respective populations of approximately 500, 250, and 100. To date, unserved licenses have enabled GCI to bring wireless service to tens of thousands Alaskans who otherwise would likely have no service at all.

Rural Alaskans have benefited greatly from GCI's deployment. As the Commission understands, wireless service provides tremendous economic benefits to these communities.¹² Furthermore, GCI's unserved area licenses support public safety and law enforcement officials who now, for the first time, have wireless service that continues to operate when they travel to

¹² See FCC Chairman Julius Genachowski, Prepared Remarks to International CTIA Wireless 2012, at 2 (May 8, 2012) http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0508/DOC-313945A1.pdf

neighboring communities.¹³ Wireless service authorized by unserved area licenses also dramatically improved the effectiveness of mobile 911 calls in the most remote parts of Alaska.

GCI intends to continue to use unserved area licenses to expand wireless service to the many Alaskan communities that remain. In total, GCI currently serves approximately 130 rural communities, but seeks to bring wireless voice and broadband service to more than 170 rural Alaskan communities statewide, including some of the most isolated in the State. Unfortunately, recent USF reforms have placed the timetable for expanding service in flux and—for some communities—in jeopardy. While the Commission’s Remote Alaska mechanism, as clarified in yesterday’s Third Order on Reconsideration,¹⁴ has added a degree of stability and provided some continuing incentive to deploy in extremely rural communities, the overall reduction of support and lack of long term predictability has hampered GCI’s ability to engage in previously planned deployments. Nonetheless, GCI hopes to deploy service to several new rural communities in 2012, 2013, and 2014. As discussed further below, any additional increases in the costs necessary to expand service—such as spectrum costs through overlay auctions—would simply reduce the number of communities that GCI or any other provider in rural Alaska could rationally serve.

II. The FCC Should Preserve the Unserved Area License Program in Alaska To Promote Rural Deployment.

Because of its continued reliance on unserved area licenses, GCI strongly supports the Commission’s proposal to permanently preserve site-based licensing in Alaska.¹⁵ A shift from

¹³ Previous wireless service in rural Alaska was typically limited to the local community, with no appreciable roaming arrangements. *See* Comments of GCI Communication Corp. at 2, RM-11510 (filed Feb. 23, 2009).

¹⁴ *See Connect America Fund*, WC Docket No. 10-90 *et al.*, Third Order on Reconsideration (rel. May 14, 2012).

¹⁵ NPRM ¶ 38.

site-based licenses to geographic-area licenses would give the winner of a future auction exclusive rights over the entire license area, including most of Alaskan CMAs 315 and 316—which cover an area larger than California, Texas, and Montana combined—even if the auction winner never intends to provide service to significant portions of these areas. This change would also lock existing unserved area licensees that do not win an auction into the contours they cover as of the auction, preventing license modifications absent approval from potentially recalcitrant competitors.

A. A Geographic-Area Licensing Scheme Would Undermine Rural Build-Out.

The change to geographic-area licenses, with the elimination of the unserved area license program, would significantly curtail expansion of GCI's wireless service in CMAs 315 and 316. This is especially true because of recent changes to the FCC's universal service program. The severe reductions in universal service support for Alaskan deployment put in place by the FCC's 2011 Universal Service Order will reduce the number of villages GCI will be able to serve in the near future because the cost of deploying to these communities is now simply too high.¹⁶ A geographic-area licensing scheme in the cellular band will raise GCI's costs still higher, by forcing the company to choose between three expensive options whenever it seeks to serve a new community: (1) bid to acquire an overlay cellular license covering all of rural Alaska despite not needing rights in most of this huge area; (2) acquire licenses in other frequency bands through auctions or in the secondary market; or (3) lease spectrum from competitors that have no incentive to support GCI's expansion.

In addition to significantly slowing service expansion to new rural Alaskan communities, shifting to geographic-area licenses will impede GCI's ability to continue offering quality service

¹⁶ See generally Petition for Reconsideration and Clarification of General Communication, Inc. at 4-9, WC Docket No. 11-42 *et al.* (filed Apr. 2, 2012).

in areas already served. Should the FCC eliminate site-based licensing and impose geographic-area licenses through an overlay auction in Alaska, GCI's ability to make modifications to its existing network will be severely limited. Today, when GCI moves an antenna site due to damage, lease expirations, or simply to improve service, it files a modification with the FCC. The current site-based system allows such a modification as long as the change only implicates areas that remain unserved by the incumbent. Under the geographic-based regime, however, every portion of the state where GCI does not have an existing license will be controlled by one of its competitors (unless GCI participates in and wins an expensive auction covering thousands of square miles where it is unlikely to provide service). Modifications will become impossible unless GCI's competitor approves the change, even if the auction winner does not offer service.

III. If the FCC Eliminates the Unserved Area License Program It Should Include Alaskan CMA Blocks in "Stage II" and Should Create a Population-Based, Two-Year Build-Out Requirement.

If, despite the negative impact on rural deployment, the Commission eliminates the unserved area program through an overlay auction, it should craft a transition that recognizes the unique challenges associated with wireless build-out in Alaska.

First, the FCC should include Alaska in "Stage II" of the transition contemplated in the NPRM. The Commission proposes that in "Stage I" of the transition overlay licenses would be offered for CMA blocks that are "substantially licensed" by a certain date or where cellular service has been authorized solely under interim operating authority.¹⁷ All other CMA blocks would continue using unserved area licenses until a set date when those CMA blocks would also be converted to overlay licenses.¹⁸ The Commission proposes that the Stage II transition begin

¹⁷ NPRM ¶24.

¹⁸ *Id.*

seven years from the date the revised rules take effect.¹⁹ Most of the CMA blocks included in Stage II are in Alaska or the rural areas of the western U.S.²⁰ The Commission has correctly noted that bringing service to these largely rural areas is economically feasible only on a gradual basis.²¹ Nowhere is this more true than Alaska, where the myriad challenges described above must be considered before a carrier determines whether it can provide service to a specific area. Alaska's changing demographics, difficult terrain, the State's sheer size, the absence of roads, the limited power grid, and the rapid changes in telecommunications technology all counsel in favor of bringing service on a gradual basis. As the Commission has wisely recognized, bringing service to the CMAs that do not meet the "Substantially Licensed test" requires the continued use of unserved area licenses. Because unserved area licenses will continue to have the greater impact in bringing service to Alaska, the Commission should permanently preserve the unserved area license program. If, however, it eliminates this successful program, it should, at a minimum, include Alaska in the latest stage of its transition to overlay licenses.

Second, if the FCC eliminates the successful unserved area license program, it should adopt a population-based, two-year build-out requirement for the winner of any auction of Alaskan CMAs. A geographic-based requirement, where the FCC would require a licensee to build out to a set percentage of the geographic area covered by the relevant CMA, is inappropriate for a state like Alaska. As discussed above, Alaska is enormous, has widely dispersed villages in difficult terrain, and the majority of the State is essentially unpopulated. As a result, any requirement to cover a large percentage of an Alaskan CMA's geography would obligate a carrier to construct an uneconomic system, covering areas where few if any Alaskans

¹⁹ *Id.* ¶ 37.

²⁰ *Id.* ¶ 36.

²¹ *Id.*

would use the service. Instead, the Commission should adopt a population-based build-out requirement, obligating a licensee to serve the parts of Alaska where people live and work.

Furthermore, the Commission should provide licensees with two years to meet this obligation. Even a population-based requirement will be very challenging, given the nature of Alaska's population distribution, the high costs of backhaul, and especially the short construction season. Indeed, the harsh weather and limited daylight limit the amount of time each year that a provider can realistically construct new sites. Accordingly, any significant delay in a given year, can postpone deployment until the following year. Anything short of a two-year build-out requirement could easily leave licensees unable to comply.

IV. Conclusion.

GCI is committed to bringing the best wireless service to the most Alaskans. To do so, it relies heavily on the Commission's successful unlicensed area licenses program—and will continue to do so in the future. GCI therefore urges the FCC to permanently preserve site-based licensing and the unserved area license program in Alaska, in recognition of the State's still-largely-unserved areas, and the unique challenges of providing wireless service in rural villages.

Respectfully submitted,

/s/ Paul Margie

Christopher Nierman
Director, Federal Regulatory
Affairs
GENERAL COMMUNICATION, INC.
1350 I Street, N.W., Suite 1260
Washington, D.C. 20005
(202) 457-8815

Paul Margie
Peter McElligott
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

May 15, 2012