Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of Connect America Fund ACS Wireless, Inc. Petition for Waiver of Section 54.313(j) of the Commission's Rules	WC Docket No. 10-90

Petition for Waiver and Request for Expedited Consideration

ACS Wireless, Inc. ("ACS Wireless") hereby requests that the Commission waive the July 2, 2012 filing deadline for its annual Eligible Telecommunications Carrier ("ETC") Report set forth in Section 54.313(j) of the Commission's rules, 47 C.F.R. § 54.313(j). Although ACS Wireless filed its ETC Report with the Regulatory Commission of Alaska ("RCA") on April 24, 2012 in accordance with RCA rules, ACS Wireless failed to file the ETC Report with the Commission by July 2, 2012, as required under newly-revised Section 54.313 of the Commission's rules. ACS Wireless filed the ETC Report as soon as it realized its error on July 10, 2012, only five business days after the due date.[1]

ACS Wireless has never before missed a filing deadline related to its universal service support, and has already put in place improved business processes to help avoid any recurrence of this issue. In light of the brevity of the filing delay, the lack of prejudice to any party as a result of the delay, and the grave consequences for ACS Wireless and its customers associated with the loss of a full calendar quarter of universal service support, ACS Wireless requests that the Commission waive the filing deadline and give effect to the ACS Wireless ETC Report as if made on a timely basis on July 2, 2012.

ACS Wireless requests expedited consideration of this Petition by December 31, 2012. ACS Wireless was projected to receive over $5 million in universal service

[1] The Public Version of ACS Wireless's ETC Report is attached hereto as Exhibit A.

support in the first quarter of 2013. Because ACS Wireless is already adjusting to reductions in its universal service support levels resulting from the Commission's *USF/ICC Transformation Order*,[2] it is critical for business planning purposes for it to know in advance whether it will be forced to adjust to a further reduction in funding available for capital improvements as a result of this matter. Loss of this support would have grave consequences for the company's operational and capital investment plans.

The Commission may waive its rules for "good cause shown."[3] More specifically, the Commission may exercise its discretion to waive a rule where special circumstances warrant a deviation from the general rule and such deviation would serve the public interest, or where the particular facts make strict compliance inconsistent with the public interest.[4] The Commission may take into account consideration of hardship, equity, or more effective implementation of overall policy on an individual basis.[5] In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.[6] This request amply meets that standard.

***First*,** special circumstances warrant a deviation from the filing deadline contained in Section 54.313(j). Although it has made an annual filing with the RCA

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[2] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*") (subsequent history omitted).

[3] 47 C.F.R. § 1.3.

[4] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

[5] *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

[6] *Northeast Cellular*, 897 F.2d at 1166.

regarding its use of universal service support for many years, this is the first year that ACS Wireless has been subject to the requirement to file an annual ETC Report with the Commission. The Commission enacted Section 54.313 as part of its recent *USF/ICC Transformation Order*, and it has been the subject of numerous implementation decisions since that time, including the Wireline Competition Bureau's *USF/ICC Clarification Order*[7] and the Commission's *Third Order on Reconsideration*.[8] Among other things, these implementing orders addressed various petitions for reconsideration, moved filing deadlines, clarified and modified Commission guidance on the expected content of the filing, and discussed which portions of Section 54.313's information collection requirements had taken effect after receiving Office of Management and Budget approval.

This whirlwind of Public Notices and Orders came in the midst of a crush of other filing deadlines and implementation requirements relating to the single most sweeping and transformative change in federal universal service and intercarrier compensation policy that the Commission has ever enacted. In the resulting confusion, and having already filed the very same information with the RCA, ACS Wireless initially overlooked the fact that it would be required to file its ETC Report with the Commission on July 2,

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[7] *Connect America Fund*, WC Docket No. 10-90, Order, DA 12-147 (27 FCC Rcd 605 (Wir. Comp. Bur. 2012) ("*USF/ICC Clarification Order*").

[8] *Connect America Fund*, WC Docket No. 10-90, Third Order on Reconsideration, FCC 12-52, 27 FCC Rcd 5622 (2012) ("*Third Order on Reconsideration*"); *see also Wireline Competition Bureau Announces Filing Deadline of July* 2, *2012, for Eligible Telecommunications Carriers to File Reports Pursuant to Section 54.313(a)(2) through (a)(6) and (h) of the Commission's Rules,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Public Notice, DA 12-729 (rel. May 8, 2012).

2012. The Commission's *Third Order on Reconsideration* indicated that no state-designated ETC would be required to provide information to the Commission during this filing cycle that it had not previously been required to collect. Because ACS Wireless had already complied with the RCA's existing ETC certification requirements, and because the RCA has not previously required ACS Wireless to collect much of information required under Section 54.313(a)(2-6) of the Commission's new rule, 47 C.F.R. § 54.13(a)(2-6), ACS Wireless initially believed that it would first become subject to the Commission's new Section 54.313 filing requirement on April 1, 2013, as is the case with other aspects of the Section 54.313 reporting requirements. Only after the filing deadline had passed did ACS Wireless realize its error.

Moreover, as the July 2, 2012 filing deadline approached and passed, the regulatory staff for ACS Wireless and its affiliates were working frantically on other tasks relating to the implementation of the *USF/ICC Transformation Order*, including:

- Preparing and filing four required tariff changes at the RCA to implement the mandatory changes in intrastate rates required by the *USF/ICC Transformation Order*;
- Preparing and filing the 2012 Annual Access Tariff filing for ACS Wireless's local exchange carrier affiliates, which initiated the transition in intercarrier compensation rate structure and levels required under the *USF/ICC Transformation Order*;
- Preparing and filing tariff supplements in response to the decision of the Wireline Competition Bureau staff to suspend the 2012 Annual Access Tariff Filings;[9]
- Handling communications to customers and company employees about bill changes resulting from the implementation of the Access Recovery Charge ("ARC");

[9] *July 3, 2012 Annual Access Charge Tariff Filings*, WCB/Pricing File No. 12-09, Order, DA 12-1037 (Wir. Comp. Bur. July 2, 2012).

- Making extensive efforts to implement the Commission's new Lifeline regulations, including monitoring the activities of the Universal Service Administrative Company ("USAC") for form changes and Lifeline educational materials; creating new form and handbook materials; training customer service, marketing, finance, finance reporting, and billing department employees on the changes in the form, program eligibility documentation and other related regulations; and developing and initiating business processes needed to implement the new regulations, including those required to accomplish 100 percent recertification of almost 17,000 Lifeline subscribers by December 31, in addition to midstream revisions based on delays in the effective date of the temporary address confirmation and recertification requirements of 47 C.F.R. § 54.410(g) and the portion of 47 C.F.R. § 54.405(e)(4) relating to temporary address de-enrollment; and

- Drafting and filing three sets of Commission comments addressing multiple aspects of the Commission's ongoing implementation effort, including comments on the Commission's proceedings relating to study area boundary mapping, Connect America Fund Phase II modeling, and the universal service contribution mechanism.

ACS Wireless and its affiliates rely on a small regulatory staff for their federal compliance needs, and they lack the resources of larger ETCs. With the crushing convergence of other demands around July 2, 2012, ACS Wireless inadvertently failed to give the filing of its ETC Report the necessary level of attention. Compounding these issues, the Washington, D.C.-based representatives of ACS Wireless were sidelined by a violent derecho thunderstorm that created the most extensive non-hurricane damage to the area's electrical and communications networks in history, resulting in a four-day loss of electrical power, as well as telephone and Internet connectivity, leading up to the Independence Day holiday.

Because of the vital importance of universal service support to its service mission, ACS Wireless has never before missed a filing deadline related to its receipt of universal service support. To help prevent any delay in future filings, ACS Wireless and its affiliates have put in place more robust business processes to ensure that filing dates for

this and similar filings are placed on a shared calendar, with alerts distributed to the responsible regulatory staff members and managers in advance. Even as compliance becomes more routine in future years, this calendaring and oversight system will act as a critical backstop to ensure timely compliance.

Finally, no party would appear to be prejudiced by the brief filing delay. The Commission received ETC Reports for all of the ACS Wireless's local exchange carrier affiliates on April 2, 2012, many months before the July 2, 2012 due date subsequently announced.[10] The ACS Wireless filing with the Commission merely reiterates information that has been on file with the RCA since April 24, 2012. A delay of five business days in making the duplicative ACS Wireless filing with the Commission should have no material effect on the ability of the Commission or USAC to ensure the proper use of federal high cost universal service support.

Second, a waiver of the filing deadline would serve the public interest. Absent a waiver, ACS Wireless stands to lose access to federal high cost universal service support for an entire calendar quarter, representing a loss of over $5 million in federal universal service support funds. Such a large penalty is wholly out of proportion to the minor filing delay presented here. This is particularly true given that the 2012 ETC Report contains no new information, but simply reiterates the filing previously provided to the RCA, in accord with the Commission's implementing *Third Order on Reconsideration*.[11]

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[10] *See* Letter from Lisa Phillips, Manager, Regulatory Affairs, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Apr. 2, 2012), available at: http://apps.fcc.gov/ecfs/document/view?id=7021906383.

[11] *Third Order on Reconsideration*, at ¶ 6 ("[W]e do not expect state-designated ETCs to report to the Commission information in their 2012 filing that they were not previously

There is nothing new of substance contained in the ETC Report, as filed with the Commission.

Moreover, ACS Wireless fully complied with the RCA's rules regarding the preparation and filing of its ETC Report, and expects that the RCA will so certify to the Commission before the October 1, 2012 filing deadline prescribed by Section 54.314(d)(1) of the Commission's rules, 47 C.F.R. § 54.314(d)(1). A minor delay in making the duplicative July 2, 2012 filing cannot justify a penalty exceeding $5 million. Such a penalty would rival or exceed those imposed by the Commission for the gravest and most egregious violations of its rules by the largest of its regulated communications and media industry participants – circumstances clearly not presented by the brief and inadvertent filing delay by a small carrier with limited resources presented here.

Moreover, were the Commission to deny support to ACS Wireless for the calendar quarter at issue here, it would harm the very consumers that are intended to benefit from universal service support mechanisms. With the loss of such a substantial portion of its universal service support, ACS Wireless's plans to deploy additional facilities, upgrade its network technology and capacity, and improve service would be in jeopardy. Given the very short construction season in Alaska, even a brief interruption in funding could require ACS Wireless to delay network upgrades for a full year. ACS Wireless and its affiliates rely heavily on quarterly cash flow, including in particular that

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required to collect . . . . But if a state-designated ETC is subject to a state requirement to report some or all of this information annually to the state, then the ETC should file a copy of any relevant information with the Commission in 2012. Requiring a state-designated ETC to file with the Commission the same information it already reports to a state commission imposes at most a minimal burden.").

from federal universal service mechanisms, to fund operations and capital investments, and they lack the ability to draw on alternative sources of financing to fund their capital plans. The impact on these investments from even a brief interruption in universal service support ultimately would be borne by ACS Wireless customers who would have benefitted from using the upgraded infrastructure – the very consumers whom the Commission intends to benefit from universal service support.

* * * * *

Grant of this waiver would be consistent with Commission precedent, in light of the fact that this is the first time that ACS Wireless has missed a filing deadline related to its universal service support, that it has put corrective measures in place, that the filing delay was brief, and that ACS Wireless and its customers would suffer undue hardship from the loss of such a substantial amount of universal service support.[12]

[12] *See, e.g., Cedar-Waspie Communications, et al., Petitions for Waiver of Universal Service High-Cost Filing Deadlines*, WC Docket No. 08-71, Order, DA 11-1337, 26 FCC Rcd 11069 (Wir. Comp. Bur. 2011) (granting four ETCs' waiver petitions under Section 54.307 and related filing deadlines when filings were late by between one business day and seven business days; the petitioners had never before missed a filing deadline; and they had taken steps to ensure compliance with all future filing deadlines).

For the foregoing reasons, ACS Wireless respectfully requests that the Commission waive the filing deadline set forth in Section 54.313(j) of the Commission's rules, 47 C.F.R. § 54.313(j), and give effect to the ACS Wireless ETC Report as if made on a timely basis on July 2, 2012.

Respectfully submitted,

ACS WIRELESS, INC.

Leonard Steinberg
General Counsel and Corporate Secretary
Richard R. Cameron
Assistant Vice President and Senior Counsel
ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.
600 Telephone Avenue
Anchorage, Alaska 99503
(907) 297-3000

Counsel for ACS Wireless, Inc.

July 16, 2012

cc: Julie Veach
Carol Mattey
Trent Harkrader
Amy Bender
Alex Minard

EXHIBIT A

alaska COMMUNICATIONS®

PUBLIC VERSION

FILED/ACCEPTED

JUL 10 2012

Federal Communications Commission
Office of the Secretary

July 10, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: REQUEST FOR CONFIDENTIAL TREATMENT
ACS Wireless Inc. – 2012 Eligible Telecommunications Carrier Certification Pursuant to 47 C.F.R. § 54.313(a)
WC Docket No. 10-90

Dear Ms. Dortch:

Together with this Request for Confidential Treatment, and pursuant to the requirements of Section 54.313(a) of the Commission's rules, 47 C.F.R. § 54.313(a), ACS Wireless, Inc. ("ACS Wireless") is submitting a copy of its annual Eligible Telecommunications Carrier ("ETC") Report previously filed with the Regulatory Commission of Alaska ("RCA") on April 24, 2012 (the "RCA Report"). Pursuant to Section 0.459(b) of the Commission's rules, ACS Wireless requests confidential treatment of certain confidential portions of Exhibit B to the RCA Report. In support of this request, ACS Wireless hereby states as follows:

(1) **Identification of the specific information for which confidential treatment is sought.** ACS Wireless seeks confidential treatment of certain portions of Attachment B to the RCA Report, specifically Table 1 (rows 3 - 12), and Table 2 (column 3), which show competitively sensitive details of ACS Wireless's network improvements using federal universal service support funds.

(2) **Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.** Attachment B is part of the RCA Report, which ACS Wireless is required to submit in fulfillment of its obligation, pursuant to Section 54.313(a)(2-6) of the Commission's rules, 47 C.F.R. § 54.313(a)(2-6), adopted as part of the *USF/ICC Transformation Order* and the Commission's implementing Public Notice and *Third Order on Reconsideration.*[1] As

[1] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) ("*USF/ICC*

indicated in the *Third Order on Reconsideration*, at ¶ 6, the Commission does "not expect state-designated ETCs to report to the Commission information in their 2012 filing that they were not previously required to collect . . . . But if a state-designated ETC is subject to a state requirement to report some or all of this information annually to the state, then the ETC should file a copy of any relevant information with the Commission in 2012."

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged. The portions of Exhibit B to the RCA Report for which confidential treatment is sought contain highly sensitive data regarding ACS Wireless's operations and business plans, particularly relating to its business judgments regarding its network coverage and capacity, as well as the areas where investment is most needed. Exhibit B contains confidential and proprietary information regarding capital expenditures and operating expenses, including disaggregated capital and expense information for each study area that is more detailed than any that ACS Wireless is required to disclose publicly in any other forum. The RCA has granted confidential treatment of this information. A competitor could use this proprietary and competitively sensitive information for marketing purposes or in developing its own deployment strategies in these areas, which would put ACS-W at a competitive disadvantage.

(4) Explanation of the degree to which the information concerns a service that is subject to competition. ACS Wireless operates in some of the most competitive telecommunications markets in the country, facing substantial competition from wireline incumbents, competitive providers, and wireless ETCs virtually throughout its service areas. The presence of such competition and the likelihood of competitive injury threatened by release of the information provided to the Commission by AT&T should compel the Commission to withhold the information from public disclosure. *CNA Financial Corp. v. Donovan,* 830 F.2d 1132, 1152 (D.C. Cir. 1987); *Frazee v. U.S. Forest Service,* 97 F.3d 367, 371 (9th Cir. 1996); *Gulf & Western Indus. v. U.S.,* 615 F.2d 527, 530 (D.C. Cir. 1979).

Transformation Order") (subsequent history omitted); *see also Connect America Fund*, WC Docket No. 10-90, Third Order on Reconsideration, FCC 12-52, 27 FCC Rcd 5622 (2012) ("*Third Order on Reconsideration*"); *Wireline Competition Bureau Announces Filing Deadline of July* 2, *20l2, for Eligible Telecommunications Carriers to File Reports Pursuant to Section 54.313(a)(2) through (a)(6) and (h) of the Commission's Rules,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Public Notice, DA 12-729 (rel. May 8, 2012).

(5) **Explanation of how disclosure of the information could result in substantial competitive harm.** A number of wireless and wireline service providers compete, or could potentially compete, with ACS Wireless within its service areas. If the confidential portions of Attachment B to the RCA Report were disclosed, these service providers would gain access highly sensitive and confidential information regarding ACS Wireless's operations and business plans. Disclosure of this information would give ACS Wireless's competitors an unfair and unwarranted competitive advantage in the market. Illustrating this point, in making these filings before the RCA, ACS Wireless's competitors requested and were granted confidential treatment for the same type of capital and operating expense data filed pursuant to the RCA's ETC annual reporting requirements.

(6) **Identification of any measures taken by the submitting party to prevent unauthorized disclosure.** The information for which confidential treatment is sought is not normally distributed, circulated, or provided to any party outside of ACS Wireless and its affiliates. ACS Wireless treats this information as sensitive information; thus only specialized personnel within the company have access to it.

(7) **Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.** The information in the confidential portions of Attachment B to the RCA Report is not available to the public, and has not previously been disclosed to third parties. As indicated, the RCA has granted confidential treatment of this information.

(8) **Justification of the period during which the submitting party asserts that material should not be available for public disclosure. A**CS Wireless maintains that the information in the confidential portions of Attachment B to the RCA Report should remain subject to confidential treatment indefinitely. Even historical data can be used to track trends or business decisions, so disclosure of this information could offer a competitive advantage to ACS Wireless's competitors, even in the future.

(9) **Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.** The information in the confidential portions of Attachment B to the RCA Report falls under Exemption 4 of the Freedom of Information Act (FOIA), insofar as this information is (i) commercial or financial in nature; (ii) obtained by a person outside government; and (iii) privileged and confidential. *See, e.g., Washington Post Co. v. U.S. Department of Health and Human Services,* 690 F.2d 525 (D.C. Cir. 1982).

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For the foregoing reasons, and pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459, ACS Wireless requests that the Commission withhold from public disclosure the information contained in the confidential portions of Attachment B to the RCA Report. If the Commission is unable for any reason to keep this information confidential, ACS Wireless respectfully requests that the Commission return the information pursuant to section 0.459(e) of the Commission's rules, 47 C.F.R. § 0.459(e).

As required by Section 1.419 of the Commission's rules, 47 C.F.R. § 1.419, enclosed are the original and one copy of this filing. Please date-stamp and return to me the additional copy provided for that purpose. Should you have any questions, please contact the undersigned at (202) 230-4962 or Richard.Cameron@acsalaska.com.

Very truly yours,

Richard R. Cameron
Assistant Vice President and Senior Counsel

cc: T.W. Patch, Chairman
Regulatory Commission of Alaska
(with attachments)

Karen Majcher
Vice President, High Cost and Low Income
Universal Service Administrative Company
(with attachments)

PUBLIC VERSION

July 10, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington, D.C. 20554

Re: ACS Wireless Inc. – 2012 Eligible Telecommunications Carrier Certification Pursuant to 47 C.F.R. § 54.313(a)
WC Docket No. 10-90

Dear Ms. Dortch:

Pursuant to the requirements of Section 54.313(a) of the Commission's rules, 47 C.F.R. § 54.313(a), ACS Wireless, Inc. ("ACS Wireless") is submitting a copy of its annual Eligible Telecommunications Carrier ("ETC") Report previously filed with the Regulatory Commission of Alaska ("RCA") on April 24, 2012 (the "RCA Report"). In connection with this filing, ACS Wireless is also submitting a request for confidential treatment of certain portions of Exhibit B to the RCA Report attached hereto.

ACS Wireless is submitting the RCA Report in fulfillment of its obligations to report certain information related to its operations and use of federal universal service support funds pursuant to Section 54.313(a)(2-6) of the Commission's rules, 47 C.F.R. § 54.313(a)(2-6), which was adopted as part of the *USF/ICC Transformation Order*.[1] Implementing this rule, the Commission has clarified that it does "not expect state-designated ETCs to report to the Commission information in their 2012 filing that they were not previously required to collect . . . . But if a state-designated ETC is subject to a state requirement to report some or all of this information annually to the state, then the ETC should file a copy of any relevant information with the Commission in 2012." *Third Order on Reconsideration*, at ¶ 6.

[1] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*") (subsequent history omitted); *see also Connect America Fund*, WC Docket No. 10-90, Third Order on Reconsideration, FCC 12-52, 27 FCC Rcd 5622 (2012) ("*Third Order on Reconsideration*"); *Wireline Competition Bureau Announces Filing Deadline of July* 2, *20l2, for Eligible Telecommunications Carriers to File Reports Pursuant to Section 54.313(a)(2) through (a)(6) and (h) of the Commission's Rules,* WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Public Notice, DA 12-729 (rel. May 8, 2012).

ACS submits the attached RCA Report in fulfillment of this Commission directive for 2012 to provide a copy of the annual report it is required to file with the RCA. To the extent that this RCA Report does not address any requirement of Section 54.313(a) (2-6), the RCA does not require ACS Wireless to collect or provide such information. Accordingly, as indicated in the *Third Order on Reconsideration*, ACS Wireless is not required to provide such information to the Commission this year.

ACS Wireless acknowledges that Section 54.313(j) of the Commission's rules, 47 C.F.R. § 54.313(j), required ACS Wireless to submit this information by July 2, 2012. ACS Wireless regrets that this filing therefore appears to be late by five business days. In the coming days, ACS Wireless intends to submit a Request for Waiver detailing the surrounding facts and circumstances, and requesting that the Commission give this filing effect as if made on a timely basis on July 2, 2012. In the meantime, ACS Wireless has taken this step to provide the filing as quickly as possible.

As required by Section 1.419 of the Commission's rules, 47 C.F.R. § 1.419, enclosed are the original and one copy of this filing. Please date-stamp and return to me the additional copy provided for that purpose. Should you have any questions, please contact the undersigned at (202) 230-4962 or Richard.Cameron@acsalaska.com.

Very truly yours,

Richard R. Cameron
Assistant Vice President and Senior Counsel

PUBLIC VERSION

alaska COMMUNICATIONS

April 24, 2012

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501

RE: Annual ETC Report in Compliance with 3 AAC 53.460

Dear Commissioners:

On April 14, 2012, ACS Wireless, Inc. filed a request for an extension of time to file its annual ETC Report. In the filing ACS Wireless, Inc. stated it would file the Annual ETC Report by April 23, 2012. ACS Wireless, Inc. respectfully requests that the Commission accept its late filing and hereby transmits its Annual ETC Report in compliance with 3 AAC 53.460.

If you have any questions, please contact Robert Foote-Jones, Associate Regulatory Compliance Analyst, at 564-3230 or myself at 297-3130.

Sincerely,

ACS of the NORTHLAND, INC.

Lisa Phillips

Lisa Phillips
Manager, Regulatory Affairs

Attachments

PUBLIC VERSION

Annual ETC Reporting Requirements
3 AAC 53.460

ACS Wireless, Inc. (ACS-W)

3 AAC 53.460(a)(1): An update of the common carrier's network deployment plan that details services provided within the eligible telecommunications carrier service area and includes:

(A): Maps detailing progress towards meeting network deployment targets.

Please see Exhibit A.

(B): The amount of Universal Service Support received:

Study Area Name	HCLS	ICLS	LS	SNA	TOTAL	Lifeline & LinkUp	State Support
ACS-Anchorage		$3,118,079			$3,118,079	$2,238,384	$215,114
ACS-AK-Juneau		$274,099	$261,728		$535,827	$129,567	$12,452
ACS-AK-Greatland		$25,075	$53,810		$78,885	$6,469	$622
ACS-Fairbanks		$1,337,759	$457,822		$1,795,581	$586,103	$56,326
ACS-N-Glacier State	$3,189,846	$3,690,925	$464,538		$7,345,309	$1,126,337	$108,244
APT	$171,121	$345,267	$196,352	$17,604,	$730,344	$6,615	$636
Copper Valley	$888,915	$409,516	$100,705	$18,390	$1,417,526	$38,230	$3,674
Ketchikan	$642,048	$609,623	$70,901	$72,607	$1,395,179	$71,198	$6,842
MTA	$3,334,572	$3,815,135	$282,507		$7,432,214	$642,462	$61,742
2011 Total	**$8,226,502**	**$13,625,478**	**$1,888,363**	**$108,601**	**$23,848,944**	**$4,845,366**	**$465,652**

(C): An explanation of how Universal Service Support was used in the previous year to improve service quality, coverage, or capacity.

ACS-W employs Universal Service Support funds received to provision, maintain, and upgrade its facilities and services for which the support was intended, pursuant to 47 U.S.C. 254(e). See Exhibit B.

a) **Anchorage Study Area. ACS-W has completed its planned build out in this study area. ACS-W has used its 2011 USF support to significantly upgrade and operate its CDMA facilities, including building three new sites, upgraded two sites and adding Rev-A and EVDO capabilities for numerous sites.**

b) **Fairbanks Study Area. ACS-W has completed its planned build-out in this study area. ACS-W has used its 2011 USF support to significantly upgrade and operate its CDMA facilities, sectorization of three sites as well as adding Rev-A and EVDO capabilities. Battery upgrades were completed in the Fairbanks study area.**

c) **Juneau-Greatland Study Area. ACS-W has completed its planned build out in this study area. ACS –W has used its 2011 USF support to upgrade and operate its CDMA facilities to improve wireless coverage as well as upgrade its batteries .**

d) **Glacier State Study Area. ACS-W has completed its planned build-out in this study area. ACS-W has used its 2011 USF support to significantly upgrade its CDMA facilities, adding sectorization to improve coverage, and adding Rev-A and EVDO capabilities to sites at Nikiski, Cooper Landing, Clam Gulch, Ninilchik, Seldovia and Kodiak.**

e) **MTA Study Area. ACS-W has used its 2011 USF support to significantly upgrade its CDMA facilities, enable new Rev A EVDO including building two new sites, adding increased sectorization and capacity to sites to improve wireless coverage, and upgraded batteries at numerous sites.**

f) **Ketchikan Study Area. ACS-W has completed its planned build-out in this study area. ACS-W has used its 2011 USF support to upgrade and operate its CDMA facilities, including battery upgrades at the remote sites of Gravina and Ratz Mountain.**

g) **Copper Valley Study Area. Through a combination of ACS-W's fourteen Copper Valley cell sites, ACS-W owned and leased backhaul facilities, and a roaming agreement with Cover Valley Wireless, ACS-W is providing ubiquitous wireless service within its study area. Prior to the economic downturn, ACS-W had completed a majority of its build-out in CVTC. Subsequently, due to resource constraints, the deployment of additional sites in Mentasta, Tatitlek, McCarthy and Chitna exchanges has been delayed. ACS W now anticipates deployment of additional facilities in Mentasta by 3rd quarter 2012, with additional sites in Tatitlek 3rd quarter 2013, and McCarthy and Chitna by 3rd quarter 2013.**
ACS- W has also used its 2011 USF support to upgrade its CDMA facilities in Copper Valley to upgrade batteries.

h) **<u>Alaska Power and Telephone Study Area.</u> ACS-W has used its 2011 USF support to upgrade its CDMA facilities, including adding Rev-A and EVDO capabilities for numerous sites, added increased sectorization and capacity to improve wireless coverage. Klukwan was completed in 2011. Hyder, Meyers Creek, and Edna Bay are planned for completion in 2012.**

(D): An explanation regarding network improvement targets that have not been fulfilled and identification of any unserved areas.

ACS-W has completed all planned network improvements as scheduled. ACS-W continually schedules network optimization.

(E): An explanation of any revisions to the previously filed network deployment plan.

Prior to the economic downturn, ACS-W had completed a majority of its build-out in the Copper Valley Telephone study area. Resource constraints, delays in negotiation and coordination of backhaul for 2012 should result in the deployment of an additional sites in Mentasta, Tatitlek, McCarthy and Chitna exchanges has been delayed. ACS W also spent much of the 2011 construction season upgrading batteries to meet its October deadline.

(D): An explanation regarding network improvement targets that have not been fulfilled and identification of any unserved areas.

ACS-W has completed all planned network improvements as scheduled. ACS-W continually schedules network optimization.

(E): An explanation of any revisions to the previously filed network deployment plan.

Prior to the economic downturn, ACS-W had completed a majority of its build-out in the Copper Valley Telephone study area. Resource constraints, delays in negotiation and coordination of backhaul for 2012 should result in the deployment of an additional sites in Mentasta, Tatitlek, McCarthy and Chitna exchanges has been delayed. ACS W also spent much of the 2011 construction season upgrading batteries to meet its October deadline.

3 AAC 53.460(a)(3): An explanation of each instance in which a customer was denied supported services and a detailed explanation of the steps taken to provide service.

ACS-W provides service throughout its ETC serving area to all customers requesting service, subject to coverage. ACS-W continually optimizes its network to improve coverage.

3 AAC 53.460(a)(4): The number of complaints to the commission or the Federal Communications Commission by study area and service area, comparing the number of complaints to the total number of handsets or lines served by the carrier by study area and service area.

	Anchorage	Copper Valley	Fairbanks	Glacier State	Greatland	Juneau	Ketchikan	MTA	APT
Total Complaints		1							
Total Handsets*	53,156	779	13,427	29,709	350	4,595	1,966	16,124	1,924

* Total handsets as of December 31, 2011

3 AAC 53.460(a)(7): Copies of any outage reports mandated by the commission or the Federal Communications Commission.

ACS-W had one outage report to file for 2011.

3 AAC 53.460(a)(9): Affidavits of publication from the prior calendar year demonstrating that the common carrier advertised the availability of supported services throughout the eligible telecommunications carrier service area.

ACS-W ran advertisements in its serving area regarding the availability of supported services in June 2011. Please see Exhibit C.

PUBLIC VERSION

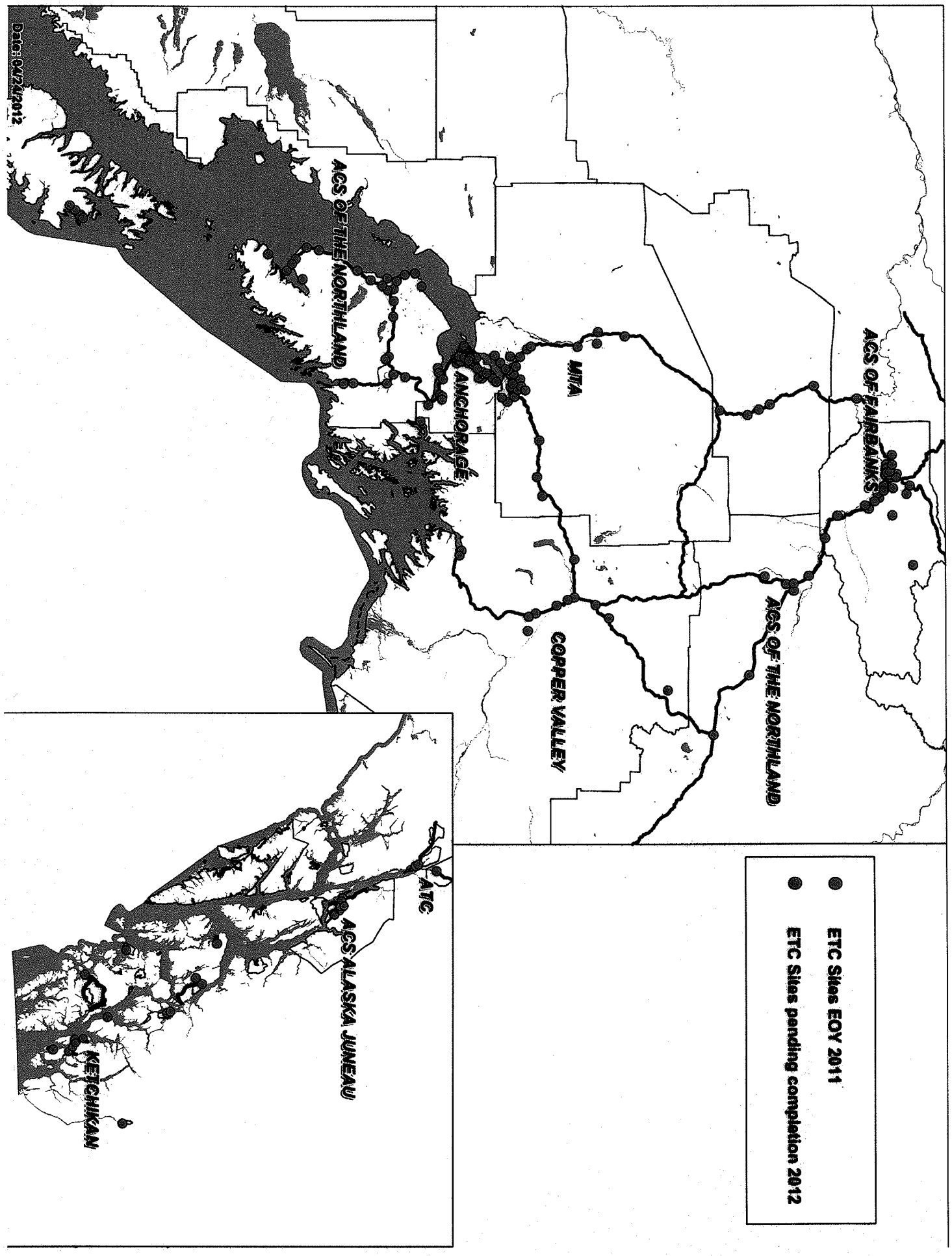

EXHIBIT A

PUBLIC VERSION

Exhibit B

ACS Wireless, Inc.
2011 Network Improvements
April 24, 2012

Table 1. Network Improvements

	Complete 2011 CETC Revenue	New Site & Acquisition Expenditures	Switching / Optimization software	3G upgrades/ sectoring	Total 2011 ACS Wireless CapEx	Second Carrier Leased Circuits	Second Carrier Call Termination	Operations and Maintenance	Building, Land, and Site Leases	COGS	Total 2011 ACS Wireless OpEx	Spending Above / (Below) CETC Support
ACS OF ANCHORAGE	3,118,079											29,622,799
COPPER VALLEY TEL	1,417,525											2,140,355
ACS-FAIRBANKS, INC.	1,795,582											8,668,345
ACS-N GLACIER STATE	7,345,308											19,714,468
ACS-AK JUNEAU	535,827											2,643,109
KETCHIKAN PUBLIC UT	1,395,180											2,299,145
MATANUSKA TEL ASSOC	7,432,216											14,422,482
ACS-AK GREATLAND	78,884											263,109
APT	730,344											2,392,492
Total	**23,848,946**											**82,166,304**

REDACTED

Table 2. 2011 New Site Build (NSB) and Site Acquisition Summary

Summary	Project Name	Total 2011 ETC Spend	Incumbent Telephone Company
2011 NSB	2011 KINCAID 2 SITE BUILD -		ACS of ANCH
2011 NSB	GLEN WEIGH STATION CDMA ADD		ACS of ANCH
2011 NSB	KEYCENTER CDMA BUILD 2010-		ACS of ANCH
2011 NSB	NORTHERN LTS/BONIFACE CDMA ADD		ACS of ANCH
2011 NSB	TURNAGAIN CDMA ADD-		ACS of ANCH
2011 NSB	HERNING ROAD		ACS-Fairbanks
2011 NSB	MENTASTA NEW BUILD		ACS-Fairbanks
2011 NSB	MILLER HILL (FMRS LOOP II)-		ACS-Fairbanks
2011 NSB	COLLEGE ROAD CDMA AD		ACS-Fairbanks
2011 NSB	MAUD ROAD CDMA BUILD 2010-		MTA
2011 NSB	SETTLERS BAY CDMA ADD -		MTA
2011 SA	2010 PRE-ENGINEERING		ACS of ANCH
2011 SA	LTE SITE PREP WORK 2011		ACS of ANCH
2011 SA	2010 PRE-ENGINEERING		ACS-AK (J)
2011 SA	LTE SITE PREP WORK 2011		ACS-AK (J)
2011 SA	2010 PRE-ENGINEERING		ACS-Fairbanks
2011 SA	LTE SITE PREP WORK 2011		ACS-Fairbanks
2011 SA	2010 PRE-ENGINEERING		ACS-N (GS)
2011 SA	LTE SITE PREP WORK 2011		ACS-N(GS)
2011 SA	2010 PRE-ENGINEERING		MTA
2011 SA	LTE SITE PREP WORK 2011		MTA
2011 SE	2011 EVDO DOM ADDS		ACS AK (G)
2011 SE	2011 EVDO DOM ADDS		ACS of ANCH
2011 SE	C & INTERNATIONAL RELOCATION		ACS of ANCH
2011 SE	MINESOTA & DIMOND RELOCATION		ACS of ANCH
2011 SE	NORTH TERMINAL RELO -		ACS of ANCH
2011 SE	PROVIDENCE HOSP DAS EXPANSION		ACS of ANCH
2011 SE	2011 EVDO DOM ADDS		ACS-Fairbanks
2011 SE	2011 EVDO DOM ADDS		ACS-N (GS)
2011 SE	2011 EVDO DOM ADDS		ATC
2011 SE	2011 EVDO DOM ADDS		KPU
2011 SE	2011 EVDO DOM ADDS		MTA
2011 SE	ASPHALT PAVING - BUTTE CELL SITE		MTA

REDACTED

EXHIBIT B

PUBLIC VERSION

Annual ETC Reporting Requirements
3 AAC 53.460

Certification Statement of Compliance with 3 AAC 53.460(6)
ACS of Wireless, Inc.

ACS of Wireless, Inc., as a common carrier and an Eligible Telecommunications Carrier (ETC), is in compliance with the requirements set out in 3 AAC 53.410(a)(12) regarding functionality in emergency situations.

ACS of Wireless, Inc. maintains a minimum of eight (8) hours of backup power in order to ensure functionality without local AC commercial power.

ACS of Wireless, Inc. has established, to the extent feasible, the ability to reroute traffic around damaged facilities and to manage traffic spikes resulting from emergency situations.

ACS of Wireless, Inc. has established procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.

I, Chris Burns, Vice President of Field Operations for ACS of Wireless, Inc., certify that, to the best of my knowledge, this statement is true for the calendar year 2011.

Chris Burns
VP, Field Operations

4/2/12
Date

PUBLIC VERSION

Annual ETC Reporting Requirements
3 AAC 53.460

Initial Certification Statement of Compliance with 3 AAC 53.410(a)(7), (16), and (17)
ACS Wireless, Inc.

ACS Wireless, Inc., in compliance with 3 AAC 53.410(a)(7), commits to provide service on a timely basis to customers requesting service throughout its ETC study area using its own facilities or a combination of its own facilities and resale in according with its network deployment plan filed under 3 AAC 53.420 and revised annually under 3 AAC 53.460(a)(1).

In any instances where ACS Wireless, Inc. is unable to fulfill a customer request for service, ACS Wireless, Inc. commits to file this data annually under 3 AAC 53.460(a)(3).

ACS Wireless, Inc., in compliance with 3 AAC 53.410(a)(16), acknowledges that it may be required to provide equal access to long distance carriers if no other ETC provides equal access within the ETC service area.

ACS Wireless, Inc., in compliance with 3 AAC 53.410(a)(17), regarding universal service support for high-cost areas, commits to use that high-cost universal service support for the provision, maintenance, and upgrade of facilities and services that benefit the ETC service area from which the support was derived.

I, Amy Gardner, Vice President of Revenue Assurance for ACS Wireless, Inc., certify that, to the best of my knowledge, these statements are true for the calendar year 2011.

Amy Gardner
VP, Revenue Assurance

April 2, 2012
Date

PUBLIC VERSION

Annual ETC Reporting Requirements
3 AAC 53.460

Certification Statement of Compliance with 3 AAC 53.460(5), 3 AAC 53.410(a)(14) and 3 AAC 53.460(3)
ACS Wireless, Inc.

ACS Wireless, Inc., as a common carrier and an Eligible Telecommunications Carrier (ETC), is in compliance with the applicable consumer protection and service quality standards as set out in 3 AAC 53.450.

ACS Wireless, Inc. maintains multiple business offices within its ETC service area, with its main branch located at 600 36th Avenue, Anchorage, AK. These offices are staffed during Commission business hours with personnel who can assist customers with their service needs and who represent the carrier. ACS Wireless, Inc. also maintains a local and a toll-free number by which customers may reach personnel for assistance with their service needs.

ACS Wireless, Inc. maintains consumer complaint procedures on their website for access by customers. Consumers may go to http://www.alaskacommunications.com and access our Frequently Asked Questions, or use a web-form to contact ACS Wireless, Inc. directly with a specific question.

ACS Wireless, Inc. complies with 3 AAC 53.410(a)(14) by offering one or more calling plans comparable to those of the incumbent local exchange carrier in its ETC serving area, including a calling plan with at least 500 free minutes of local usage per month.

ACS Wireless, Inc., as a common carrier and an Eligible Telecommunications Carrier (ETC), provided service throughout its ETC serving area to all customers requesting service, whenever possible.

Any instances where requested service was not provided have been detailed in this Annual ETC filing, as required by 3 AAC 53.460(3).

I, Marla Thompson, Vice President of Consumer Sales and Service for ACS Wireless, Inc., certify that, to the best of my knowledge, this statement is true for the calendar year 2011.

Marla Thompson
VP, Consumer Sales & Service

4/2/12
Date

If you're eligible for Lifeline, Alaska Communications has you covered.

$1 per month basic wireline or wireless service.

With Lifeline wireless, get unlimited talk in Alaska Communications' Lifeline service area, Nationwide text and a free phone all for just $1 a month.

Lifeline Plan includes:

- A one-time Link-up service discount for basic wireline home phone or wireless service
- Alaska Communications best-in-class services at a reduced rate
- Free and affordable phones available for wireless Lifeline customers

---

Depending on where you live, and if you're a qualified recipient of a public assistance program or meet household income level requirements, you may be eligible for Alaska Communications Lifeline service. Only one Lifeline service is allowed per household. Taxes and fees apply.

Call 800-803-8083, visit any store, or get more information at alaskacommunications.com

alaska COMMUNICATIONS®

Lifeline service not available in all areas. Subject to local taxes & fees. Service is based on ACS Lifeline network coverage areas. ACS companies are eligible telecommunications carriers and provide basic phone Lifeline and Link-up service in the Alaska Communications' Lifeline service area served by ACS of Anchorage, Inc., ACS of Fairbanks, Inc., ACS of Alaska, Inc., and ACS of Northland, Inc. ACS Wireless, Inc. can also provide wireless Lifeline and Link-up service in the areas served by ACS of Anchorage, Inc., ACS of Fairbanks, Inc., ACS of Alaska, Inc., ACS of Northland, Inc., Glacier State, Alaska Telephone Company, Inc., Copper Valley Telephone Cooperative, Inc., Ketchikan Public Utilities and Matanuska Telephone Association.

PUBLIC VERSION

PUBLIC VERSION

ALAS2608
L42367
$2970.75

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Hope Bauman
being first duly sworn on oath
deposes and says that he is
a representative of the
Anchorage Daily News, a
daily newspaper. That said
newspaper has been approved
by the Third Judicial Court,
Anchorage, Alaska, and it now
and has been published in the
English language continually as a
daily newspaper in Anchorage,
Alaska, and it is now and during
all said time was printed in an
office maintained at the aforesaid
place of publication of said
newspaper. That the annexed is
a copy of an advertisement as it
was published in regular issues
(and not in supplemental form)
of said newspaper on

Thursday June 30, 2011

and that such newspaper was
regularly distributed to its
subscribers during all of said
period. That the full amount of
the fee charged for the foregoing
publication is not in excess of
the rate charged private individuals.

Signed Hope E Bauman

Subscribed and sworn to before
me this 30 day of June
20 11

Britney Thompson

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES
5-18-2015

BRITNEY THOMPSON
My Commission Expires
NOTARY PUBLIC
May 18, 2015
STATE OF ALASKA

EXHIBIT C 2 of 8

PUBLIC VERSION

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA,
STATE OF ALASKA } **ss:**

Denise Reece being first duly sworn, on oath deposes and says:

That I am and was at all times here in this affidavit mentions, Supervisor of Legals of the Peninsula Clarion, a newspaper of general circulation and published at Kenai, Alaska, that the

If You're Eligible for Lifeline

a printed copy of which is hereto annexed was published in said paper one each and every day for one successive and consecutive day in the issues on the following dates:

June 30, 2011

x Denise Reece

SUBSCRIBED AND SWORN to me before this 14th day of July, 2011

Jane Russell

NOTARY PUBLIC in favor for the State of Alaska.

My Commission expires 26-Aug-12

JANE S RUSSELL
NOTARY
PUBLIC
STATE OF ALASKA

3 of 8

EXHIBIT C

PUBLIC VERSION

Publisher's Affidavit

UNITED STATES OF AMERICA **SS:**

State of Alaska

I, the undersigned, being first duly sworn, depose and say: I am Editor or Publisher of the Kodiak Daily Mirror, a daily newspaper published in Kodiak, Third Judicial Division, State of Alaska, and that the annexed printed notice was published in said newspaper in issues of the following dates:

6/30/2011

X _____

Signature of Editor or Publisher

SUBSCRIBED AND SWORN to before me this 19th **day of** July **,20**11

Janet S Baker

NOTARY PUBLIC in and for the State of Alaska.

My Commission expires 3/1/13

JANET S. BAKER
NOTARY PUBLIC
STATE OF ALASKA
My Commission Expires March 1, 2013

EXHIBIT C

PUBLIC VERSION

KAYLIE HOLLOW
My Commission Expires
NOTARY PUBLIC
June 3, 2013
STATE OF ALASKA

AFFIDAVIT OF PUBLICATION

UNITED STATES OF AMERICA
STATE OF ALASKA
FOURTH DISTRICT } SS.

Before me, the undersigned, a notary public, this day personally appeared Marena Burnell, who, being first duly sworn, according to law, says that he/she is an Advertising Clerk of the Fairbanks Daily News-Miner, a newspaper (i) published in newspaper format, (ii) distributed daily more than 50 weeks per year, (iii) with a total circulation of more than 500 and more than 10% of the population of the Fourth Judicial District, (iv) holding a second class mailing permit from the United States Postal Service, (v) not published primarily to distribute advertising, and (vi) not intended for a particular professional or occupational group. The advertisement which is attached is a true copy of the advertisement published in said paper on the following day(s):

6/30/11

VITRO AGENCY
ACS

63 i

LIFELINE
234784 40383448

and that the rate charged thereon is not excess of the rate charged private individuals, with the usual discounts.

Marena Burnell

Subscribed and sworn to before me on this 19 day of July, 20 11

Kaylie Hollow

Notary Public in and for the State Alaska.

My commission expires June 3, 2013

5 of 8

EXHIBIT C

PUBLIC VERSION

PUBLISHER'S AFFIDAVIT

UNITED STATES OF AMERICA)
STATE OF ALASKA)
: SS.
FIRST JUDICIAL DISTRICT)

Before me, the undersigned, a notary public this day personally appeared Ron Loesch who, being first duly sworn, according to law, says that he/she is the publisher of Wrangell Sentinel published at Wrangell in said Division First Judicial and State of Alaska and that the advertisement, of which the annexed is a true copy, was published in said publication on the 30 day of June 2011, and thereafter for _____ week/s, the last publication appearing on the 30 day of June 2011, and that the rate charged thereon is not in excess of the rate charged private individuals.

Ronald J Loesch

Subscribed and sworn to before me

This 1 day of July 2011

Elizabeth K Loesch

6 of 8

EXHIBIT C

OFFICIAL SEAL
ELIZABETH K. LOESCH
NOTARY PUBLIC-STATE OF ALASKA
My Comm. Expires July 11, 2012

PUBLIC VERSION

COPPER RIVER RECORD
P.O. BOX 277
GLENNALLEN, ALASKA 99588
PHONE: 907-259-5277
EMAIL: CONTACT@COPPERRIVERRECORD.NET

Affidavit of Publication

RE: Lifeline Ad 06/30/11 issue CRR

UNITED STATE OF AMERICA

STATE OF AK ss

THIRD JUDICIAL DIVISION.

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC THIS DAY PERSONALLY APPEARED Matthew Lorenz WHO, BEING FIRST DULY SWORN, ACCORDING TO THE LAW, SAYS THAT HE/SHE IS THE Owner/Publisher OF THE COPPER RIVER RECORD AT GLENNALLEN IN SAID DIVISION THIRD JUDICIAL AND STATE OF ALASKA AND THAT THE ADVERTISEMENT, OF WHICH THE ATTACHED IS A TRUE COPY, WAS PUBLISHED IN SAID PUBLICATIONS ON THE 30th DAY OF June, 2011.

July 20, 2011

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, _____

SIGNED _____ NOTARY PUBLIC FOR STATE OF ALASKA.

MY COMMISSION EXPIRES ON _____.

EXHIBIT C

PUBLIC VERSION

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA,)
) SS:
Gateway Borough)

Tena Williams, being duly sworn says:

That she/he is representative of the Ketchikan Daily News, a daily newspaper published at Ketchikan, in said Borough and State, and that the publication of which the annexed is a printed and true copy, was published in said newspaper at least once a day and every day for one successive day commencing on the 30th day of June, 2011 and ending on the 30th day of June, 2011.

Subscribed and sworn to before me this 30th day of June. 2011.

Vernalea M. Houts
Notary Public for Alaska

My Commission Expires 1-16-2012

Official Seal
Vernalea M. Houts
Notary Public - State of Alaska
My Comm. Expires
January 16 2012

EXHIBIT C