

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208
	)	
Petition for Waiver of Cordova Wireless Communications, Inc.	)	

**REPLY COMMENTS OF CORDOVA WIRELESS COMMUNICATIONS, INC.**

Cordova Wireless Communications, Inc. (“Cordova”), by its attorneys, and pursuant to the Federal Communications Commission’s Public Notice<sup>1</sup> and Erratum<sup>2</sup> of October 11 and October 12, 2012, hereby responds to the Comments filed by various parties in response to Cordova’s Petition for Waiver (“Petition”) filed in the above-captioned proceedings on October 1, 2012. Of the four parties filing comments on Cordova’s Petition, only two parties opposed grant of the Petition. As discussed below, those parties – Copper Valley Wireless (“CVW”) and General Communication, Inc. (“GCI”) – provide no persuasive basis for denial of Cordova’s Petition.

In its Petition, Cordova demonstrated that without the requested waiver, Cordova will be forced to terminate all wireless operations, resulting in loss of all wireless voice service in

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<sup>1</sup> *Wireless Telecommunications Bureau Seeks Comment on Cordova Wireless Communications, Inc. Petition for Waiver of Universal Service Rules*, WC Docket No. 10-90, WT Docket No. 10-208, DA 12-1627 (rel. October 11, 2012).

<sup>2</sup> *Erratum; Wireless Telecommunications Bureau Seeks Comment on Cordova Wireless Communications, Inc. Petition for Waiver of Universal Service Rules*, WC Docket No. 10-90, WT Docket No. 10-208 (rel. October 12, 2012).

Yakutat, Alaska and in a significant portion of Cordova's service area, and the loss of GSM service through virtually the entirety of Cordova's service area. Cordova agrees with the comments filed by Alaska Communications Systems and Alexicon Telecommunications Consulting that conclude that grant of the requested waiver serves the public interest.

CVW's Comments incorrectly argue that Cordova's Petition contains significant factual errors. Specifically, CVW claims that the coverage maps submitted by Cordova are "inconsistent with actual data."<sup>3</sup> However, CVW submits no actual data of its own to refute these coverage showings. Instead, CVW simply asserts that the coverage depicted on Cordova's maps "is impossible based on terrain."<sup>4</sup> This assertion is belied by real world experience. The coverage depicted on those maps is supported by reports from Cordova's customers that they are receiving coverage in those areas.<sup>5</sup>

CVW argues that the area where Cordova's Petition shows that the Cordova is the sole provider of wireless voice service does not constitute a "significant" portion of Cordova's non-Yakutat service area. As set forth in the Petition, the area in which Cordova is the sole provider of mobile service constitutes approximately 30% of its Cordova wireless service area and the area

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<sup>3</sup> CVW states that it is unable to determine what Cordova used as the basis of its coverage. Cordova based its coverage on cell site elevation and transmit power, taking into account propagation loss and potential land mass interference.

<sup>4</sup> CVW Comments at p. 5. CVW correctly points out that footnote 7 on page 4 of the Petition incorrectly states that Cordova covers "the majority of Montague Island." Cordova covers less than half (roughly 35%) of the land area of the island. What Cordova had intended to state was that it covers the majority of the *coast line* of Montague Island. While there are no permanent inhabitants of the island, the numerous recreational users of the island rely on Cordova coverage for voice and public safety communications.

<sup>5</sup> CVW also claims that the "Cordova coverage maps . . . show[] that they currently serve Valdez, which they cannot legally do." CVW Comments at p. 5. While the map shows negligible "splatter" coverage near Valdez, Cordova's CGSA boundary resulting from its Naked Island cell site is approximately ten miles from New Cingular's Valdez CGSA and does not result in a service area boundary extension into New Cingular's CGSA, and Cordova does not serve nor intend to serve Valdez.

in which Cordova is the sole provider of GSM service is approximately 98 % of its Cordova wireless service area. It is simply not credible for CVW to argue that such a substantial area is insignificant.<sup>6</sup> The remaining arguments in CVW's Comments regarding Cordova's "public safety assertions,"<sup>7</sup> Yakutat coverage<sup>8</sup>, and forest service permit, and CVW's operating environment are non-germane.

In its Comments, GCI argues that Cordova's waiver request is "premature." GCI claims that the harms to Cordova caused by application of Section 54.307(e)(3)(iv) of the FCC's Rules are "largely hypothetical." As discussed at length in the Petition, these harms are quite real. Based on its projected operating expenses, Cordova will be unable to continue to provide service in its Cordova and Yakutat service areas if its support is reduced below 80% of its current level of support. GCI's claim that Cordova "will face that phase-down only if it is not awarded Mobility Fund Phase 2 or Tribal Mobility Fund Phase 2 support for its areas"<sup>9</sup> is incorrect. Cordova will lose support under the phase-down regardless of whether it obtains additional

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<sup>6</sup> CVW argues that "the only areas that [Cordova] shows as 'Cordova only' service are the fringe areas north of the airport and the area around Flag Point." CVW Comments at p. 6. The Cordova-only area constitutes considerably more area than the area described by CVW, including its coverage of the Gulf of Alaska. Moreover, the so-called "fringe" areas referenced by CVW constitute approximately 1,000 square miles and, while remote, include salmon migration monitoring stations which are critical to both the local economy and public safety. *See* attached article from The Cordova Times, June 30, 2012, detailing a river rescue facilitated by wireless service provided by Cordova, the only wireless carrier in that area.

<sup>7</sup> CVW claims that "Cordova attempts to establish a special status with respect to being a public safety communications provider." CVW Comments at p. 6. Cordova simply describes the significant public safety benefits of the service it provides and the public safety entities that rely on Cordova service. Cordova makes no claim of "special status."

<sup>8</sup> CVW incorrectly claims that Cordova "misstates the competitive situation in Yakutat." CVW Comments at p. 7. While CVW is correct that Cordova's application for ETC status is pending and that GCI has obtained authorization to service Yakutat, these facts are irrelevant to Cordova's depiction of the area in Yakutat where it is currently the sole provider of wireless voice service. CVW further mischaracterizes the Petition in referring to Cordova's Yakutat tower site. Contrary to CVW's allegation, the Petition contains no assertion that Cordova's Yakutat tower site is "mountain top or helicopter only access."

<sup>9</sup> GCI Comments at pp. 3-4.

support from Phase 2. Simply put, Cordova cannot justify continued expenditures in Yakutat or Cordova without the certainty of a sufficient level of support going forward. While GCI may feel that there is “little cause for alarm,” and may believe that there is little risk in continuing to operate a wireless network, knowing that sufficient support to continue to operate that network will soon disappear, Cordova is the entity that is faced with this difficult decision, and it has decided that, absent a waiver, it will immediately terminate service to Yakutat, and terminate service to the remainder of its service area prior to the scheduled reduction of support.<sup>10</sup>

Cordova’s waiver request is not premature. Obtaining a decision on the amount of support that Cordova will be entitled to going forward is essential to Cordova’s planning for the next five years (and beyond) of providing services.<sup>11</sup> Absent a ruling from the FCC, Cordova is unable to determine whether it currently makes financial sense to implement planned improvements to its network and make additional investments in that network.

GCI claims that “it is impossible to tell whether [Cordova] will qualify for a waiver in 2015” because GCI *may* be providing service to Yakutat by then, and that in such case, Cordova will no longer be the sole wireless provider in Yakutat.<sup>12</sup> GCI’s “plans” to serve Yakutat provide no basis for a finding that Cordova is not the sole provider of wireless voice service in certain parts of Yakutat. Such plans are entirely speculative, and do not constitute evidence as to whether GCI will actually serve Yakutat, when it will do so, or how much of Yakutat it will

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<sup>10</sup> GCI highlights the fact that Cordova applied for FCC authority to serve Yakutat in May 2011, four months before the FCC issued its *USF/ICC Transformation Order*, and argues that it did so “with full knowledge of the coming regulatory changes.” GCI Comments at p. 6. Cordova did so at the behest of its local community, and the need for wireless voice service. While Cordova knew that the FCC was considering modifications to its universal service program, it had no idea, nor could it have, of the specific measures that the FCC would ultimately adopt.

<sup>11</sup> The FCC asks carriers to submit five year buildout plans based on its conclusion that such a planning period is relevant to decisions regarding the distribution of support. *See* 47 C.F.R. § 54.202(a).

<sup>12</sup> GCI Comments at p. 4.

cover. Moreover, whether Cordova is the sole provider of voice service in a portion of Yakutat is not determinative of whether it has shown good cause for grant of the requested waiver. The *possibility* that GCI *may* provide coverage to a *portion* of Yakutat has no bearing on Cordova's status as the sole provider of mobile voice service in a substantial portion of the remainder of its service area and the sole provider of GSM service in virtually the entirety of Cordova's service area.

The Comments filed by CVW and GCI do not dispute the public interest benefits of the wireless voice service that Cordova seeks to continue to provide and that the requested level of support would allow Cordova to continue to do so, and they provide no basis for denying the Petition. Accordingly, for the reasons set forth in Cordova's Petition, the Commission should grant the waiver relief requested therein.

Respectfully submitted,

CORDOVA WIRELESS COMMUNICATIONS, INC.

By: */s/ Michael R. Bennet*

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Everything was going well for Daniel Montoya and his three children: Isabella, 10; Daniel, 13, and their elder sister Niki, 14. The family, who lives in San Diego, had arranged to meet up in Alaska with a longtime friend, Edward Ercoline from Fairbanks. Ercoline was the owner of a 19-foot-long, custom-designed river raft that the five of them would raft down the Copper River.

Montoya and Ercoline had served together as paratroopers in the U.S. Army back in the late 1970s. They had navigated these precarious waters in the past but hadn't been back in a few years and were well trained in wilderness survival.

Departing from Chitina, the friends enjoyed their Alaska adventure. As with all vacations, the days were winding down and the happy travelers were mindful of reaching their final destination, Cordova, in order to catch their flight back to San Diego.

When they hit Miles Lake on Sunday the summer escapade started to turn bleak, and the adventure became a race for rescue.

"We were trying to enter one of the channels but we kept bottoming out," explained Montoya surrounded by the reassuring comfort of Orca Adventure Lodge earlier this week.

"At that time we knew we would eventually make it, but we were on a schedule and the kids were cold," added the tall and strong Californian. So the two men called the Cordova Police Department for navigation help.

"They first gave us precise directions and we made a run at that," said Edward Ercoline. "But we were still bottoming out all the time," added the two elder Montoya children Niki and Daniel, while their younger sister Isabella napped on the dining room table.

For nearly 14 hours they tried unsuccessfully to enter one of the river's channels. The current, pushing them in the right direction, was countered by a strong wind in the opposite direction, blowing the raft back into a standstill in Miles Lake.

At this point the situation didn't seem too hazardous but the raft was now in the middle of the lake on a sand bar, which was becoming narrower by the hour. It had become clear the rafters weren't making headway, and were not going to get to Cordova on time without help. That's when Cordova resident Luke Borer and his 28-foot-long hovercraft were called.

Borer got up the Copper and on site at about 1:30 p.m., 90 minutes after leaving Cordova. He got the travelers situated on board the 60,000 pound hovercraft and secured the raft with a tow line.

As they began to make way towards Cordova, they ran into Steve Ranney, owner of Orca Adventure Lodge, who offered assistance. At the Million Dollar Bridge, Ranney loaded the family's heavy gear onto his boat.

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A few pounds lighter, the hovercraft party with raft in tow kept heading down river. As they floated below Child's Glacier, things got serious. The prop sheared off the shaft, leaving the hovercraft afloat but drifting in the Copper's raging current without power. The men broke out paddles, working furiously to steer the craft as the current pulled them on a collision course with the Mile 36 Bridge.

Approaching the bridge, it was clear that with such high water, the boat would be lucky to pass beneath the bridge. They worked the big rafting oars and kept paddling, but according to Borer, it was "nearly impossible" considering the size and weight of the hovercraft.

In a stroke of exceptional and ultimately luck, Borer managed for a few seconds to get cell phone service, briefly reaching one of his friends back in town, Jack Stevenson.

"He had very little time," Stevenson told The Cordova Times. "He just said: 'We broke down and we're drifting towards the bridge!'"

Stevenson understood how critical the situation was. He hurried to help his friend, but as he headed toward the bridge, he had the presence of mind to alert the U.S. Coast Guard air station. The Coast Guard immediately launched a search-and-rescue helicopter team.

Back on the hovercraft, the situation wasn't getting any better. "Throwing an anchor in the river," Boyer said, "it's just an easy way to get in trouble. But at that time, we had to make a choice."

Niki Montoya, who says all three brothers and sisters had managed to cheer up and stay calm, started to worry: "We were scared, and it was raining."

The first anchor attempt was nearly a disaster, remembers her father. "The anchor wrapped around his leg, and he fell on the deck," Montoya said. The men tried a few other times to set the anchor in a log or a rock to stop the boat from drifting towards the bridge.

"They knew at that point it was a life-threatening situation," Borer said. After their third failed attempt with the anchor, the two former paratroopers decided to take a gamble and attempt to jump on shore. "When you have kids, what are you gonna do? You just jump," Montoya said.

Once on the rocks there was still no place to secure a line. As the river raged, Montoya was using every ounce of energy the big paratrooper had, working to pull the boat towards shore. As he struggled, his three children watched from the deck on the hovercraft as the line in his hands snapped.

"I love you dad," yelled the Montoya kids as the boat was drifting away from the shore into the current. Montoya stood there, watching, knowing there was nothing more he could do. "At that point, I was scared," Daniel Montoya said.

Approaching the now infamous Mile 36 Bridge, the children huddle onboard the craft, holding hands and, for a moment, praying.

Niki, assuming her role of elder sister, ordered her siblings to stop crying and get their act together. Both Niki and Daniel remained poised given the situation and their age. They grabbed the well-stocked survival kits around them, assembling signaling devices, waterproof matches and even a few peaches and peas in a can.

"We made it through the bridge, which shouldn't have happened," Niki said. "It was about 2 inches above our head and a piece snapped off the top of the boat!" added her younger brother Daniel.

As a matter of luck or perhaps divine intervention, the boat was stopped by a sand bar shortly after passing under the bridge, preventing it from going any farther downriver into the night. Young Daniel fired one of the signaling devices. Moments later, out of the fog and wind, the Coast Guard helicopter appeared.

One by one, with help from the search-and-rescue team, starting with the young Isabella, the children made their way to the helicopter which brought them back to the 36-Mile Bridge. Dad was waiting, along with a growing party of Alaska State Troopers and U.S. Forest Service officials, as well as Borer's brother Jason and friend Mark King.

Everyone was glad the story had a happy ending, but as Daniel Montoya said upon reflection: "Anything can go wrong at any time on the Copper River."

Alaska State Trooper Mark Cloward could not agree more.

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"Yesterday we came very, very close to having fatalities," explained the sergeant, who said the troopers did not learn of the incident until 9 p.m. Sunday, about 30 minutes before the boat was rescued by the Coast Guard.

"In case of a problem, or even a concern, it is essential to contact us," Cloward said. "This is our primary mission. We are trained and have the assets and resources but we need to know what's happening so we can help people out there."

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## CERTIFICATE OF SERVICE

I, Linda L. Braboy, of Bennet & Bennet, PLLC, hereby certify that a copy of the foregoing REPLY COMMENTS OF CORDOVA WIRELESS COMMUNICATIONS, INC. was served this 28th day of November, 2012, via First Class U.S. Mail, on those listed below:

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