

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

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
) FCC 12-138

**Comments of
Alaska Communications Systems**

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January 28, 2013

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Summary

Alaska Communications Systems (“ACS”) welcomes the Commission’s proposal to revise its rules governing the use of CAF Phase I incremental support. This support mechanism is an essential contributor to the Commission’s larger plans to transform its high cost universal service support mechanisms into engines that foster and sustain deployment of broadband facilities and the availability of affordable broadband services. While overly restrictive constraints on the use of CAF Phase I incremental support in 2012 limited the ability of many carriers, including ACS, to use the full amount of support offered by the Commission, ACS remains eager to use this support to bring the benefits of new and improved broadband services to as many Alaskans as possible.

To achieve this goal, which ACS believes is consistent with the Commission’s larger vision, ACS encourages the Commission to take a series of critical steps to maximize the impact of CAF Phase I incremental support in 2013. Specifically, with respect to the size of the CAF Phase I incremental support mechanism, ACS believes that the Commission should distribute a full \$300 million in incremental support in 2013. Because ACS expects that CAF Phase I will extend through the entirety of calendar year 2013, the Commission should distribute this year’s full amount of CAF Phase I incremental support, just as it did when it announced 2012 incremental support offers in April 2012. In addition, the Commission should distribute the remaining unused portion of 2012 CAF Phase I incremental support in proportion to the original size of the price cap carriers’ respective offers of 2012 support. This will provide all price cap carriers, whether or not they accepted any portion of their CAF Phase I incremental support offers in 2012, with an opportunity in 2013 to use a portion of this unclaimed funding to advance the Commission’s broadband deployment goals under the Commission’s new 2013 incremental support rules.

With respect to the areas eligible to benefit from 2013 CAF Phase I incremental support, ACS believes that the Commission should harmonize these rules, to the greatest degree possible, with those governing use of frozen high-cost support and CAF Phase II support. Specifically, the Commission should permit use of CAF Phase I incremental support at any location not served by an unsubsidized broadband competitor offering residential fixed *voice and* broadband service, as previously defined by the Commission. As a proxy for the Commission's broadband speed standard of 4 Mbps downstream and 1 Mbps upstream, the Commission should use the coverage area shown on the National Broadband Map for service at a speed of 6 Mbps downstream and 1.5 Mbps upstream. By doing so, the Commission will ensure that carriers can use CAF Phase I incremental support to deploy broadband meeting the Commission's preferred CAF Phase II standards. Similarly, price cap carriers should be permitted to use CAF Phase I incremental support where broadband meeting the Commission's CAF Phase II latency and capacity standards is unavailable.

In determining the structure and levels of CAF Phase I incremental support, the Commission should take into account the extremely high broadband deployment costs and low population density in Alaska, which drive ACS's need for CAF Phase I support far above the levels that may be needed by carriers in the Lower 48 states. ACS faces fiber deployment costs far above those cited in the Commission's Further Notice; additional costs to deploy or upgrade broadband network equipment at the node, as well as loop plant connecting to the customer's premises; as well as further costs to transport broadband data between the central office and Anchorage, where it can reach undersea cables connecting Alaska to the nearest Internet access points in Washington and Oregon.

If the Commission adopts a per-mile support structure for fiber deployment, therefore, the Commission should set support levels for Alaska that reflect these high costs, by (i) providing per-mile support at a level reflecting ACS's high costs of deployment; (ii) providing additional support for deployment or upgrades to broadband equipment at the node, as well as improvements to the loop plant connecting to the customer premises; and (iii) providing support for technologies other than fiber, such as microwave links, satellite transport, or copper feeder plant, where such technologies are the most efficient way to deliver service to the locations being served.

In addition, the Commission should retain the option for carriers to elect to receive a unitary, per-location level of support, which should be tiered to reflect the higher costs of deployment at some locations as compared to others. For example, while ACS stated in its waiver petition in 2012 that it could upgrade certain locations, which it currently serves with outdated broadband equipment delivering only 768 Kbps downstream, within the \$775.00 per-location cap, other locations are far more expensive to serve, requiring far more CAF Phase I incremental support.

Finally, the Commission should not reduce the scope of a carrier's CAF Phase II commitment, either by replacing census blocks where a carrier makes broadband investments using CAF Phase I incremental support with higher cost census blocks currently supported by the Remote Areas Fund, or by reducing the amount of a carrier's CAF Phase II support.

With respect to compliance and monitoring issues, the Commission should permit, but not require, carriers to file detailed lists of census blocks where it intends to utilize 2013 CAF Phase I incremental support; and should permit the carrier to file any such list confidentially. The

Commission should not require a carrier, before accepting CAF Phase I incremental support, first to provide broadband to any unserved location within its territory that could be constructed at a cost below the benchmark. And, a price cap carrier should not be required to provide a set amount in matching funds to accompany its acceptance of CAF Phase I incremental support.

The census block challenge process should be forward-looking, and should be concluded at least 90 days in advance of the deadline for carriers to accept 2013 CAF Phase I incremental support, to enable these carriers to make a meaningful assessment of their opportunities to deploy broadband facilities using this support.

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Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”)¹ hereby submits these comments in response to the Further Notice of Proposed Rulemaking (“Further Notice”)² issued by the Commission in the above-captioned proceeding. In these comments, ACS urges the Commission to increase the share of the cost of broadband deployment borne by CAF Phase I incremental support by restructuring its rules both to make underserved locations eligible for support and to increase the amount of support available for deploying broadband to those locations. Only by doing so will the Commission fully maximize the goal of the CAF Phase I incremental support mechanism to “provide an immediate boost to broadband deployment” in advance of implementation of the CAF Phase II mechanism.³

¹ In these comments, “Alaska Communications Systems” signifies the incumbent local exchange carrier (“ILEC”) subsidiaries of Alaska Communications Systems Group, Inc., which include ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc.

² *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, FCC 12-138, 27 FCC Rcd 14566 (2012).

³ *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), at ¶ 137.

I. ACS SUPPORTS THE COMMISSION'S EFFORTS TO REFORM THE CAF PHASE I INCREMENTAL SUPPORT MECHANISM

ACS strongly supports the Commission's goals to use universal service support to accelerate deployment of broadband facilities and delivery of affordable broadband service to high cost areas of rural America, including Alaska. Nevertheless, overly prescriptive rules governing the use of CAF Phase I incremental support in 2012 has hindered achievement of the full public interest benefits the Commission hoped that mechanism would deliver.

The success of the CAF Phase I incremental support mechanism has been hampered, in ACS's view, chiefly because the level of per-location support available was insufficient. The Commission's rules restricted use of such support awarded in 2012 to customer locations that were completely unserved by broadband, *i.e.*, did not have access to fixed terrestrial broadband with a minimum speed of 768 kbps downstream and 200 kbps upstream.⁴ Particularly in Alaska, where ACS and GCI compete vigorously for broadband customers, such customer locations generally remain unserved because the prohibitive cost of deploying, maintaining, and operating the necessary facilities makes such service uneconomic. The Commission's requirement that a price cap carrier accepting CAF Phase I incremental support in 2012 deploy broadband to at least one such unserved location for every \$775.00 yielded insufficient support to make deployment economically viable under those conditions for most unserved locations.

As a result, price cap carriers were able to accept only approximately \$115 million of the \$300 million offered by the Commission in 2012. In an attempt to deliver additional public interest benefits using a great portion of the 2012 CAF Phase I incremental support, several

⁴ Further Notice at ¶ 10.

recipients, including ACS, sought waivers of the Commission's rules governing use of this support.⁵ ACS proposed three alternative forms of relief to enable it to make full use of the remainder of its 2012 CAF Phase I incremental support. Specifically, ACS requested that the Commission either (1) permit it to use a portion of the support to upgrade obsolete broadband facilities that deliver broadband fall within the lowest speed tier shown on the National Broadband Map, with a speed between 768 kbps and 1.5 Mbps, and that are located in areas unserved by any other provider; (2) waive the \$775.00 per-location limit, providing additional tiers of per-location support at levels of \$5,000.00 and \$7,800.00 for locations beyond an initial tranche of 2,163 that ACS could serve under the current rules; or (3) permit ACS to use 2012 CAF Phase I incremental support in areas served exclusively by fixed wireless broadband Internet service providers ("WISPs"), which often do not provide voice services, in addition to broadband, as required under the Commission's CAF Phase I frozen support and CAF Phase II rules. The ACS Petition for Waiver remains pending with the Commission.

ACS is pleased to see the Commission incorporate several of these ideas into the Further Notice, and believes that the CAF Phase I incremental support mechanism will be stronger in 2013 and will deliver greater public interest benefits if the Commission adopts the right combination of the reforms proposed in its Further Notice, as discussed herein.

⁵ ACS indicated would be economically feasible for it to use only \$1,676,325.00 of the \$4,185,103.00 originally offered by the Commission within the constraints of the Commission's governing rules. *See, e.g., Connect America Fund*, CC Docket No. 10-90, Petition for Waiver of ACS of Anchorage, Inc., ACS of the Northland, Inc., ACS of Fairbanks, Inc., and ACS of Alaska, Inc. (filed Sept. 26, 2012) ("*ACS Petition for Waiver*").

A. The Commission Should Make Available To Price Cap Carriers In 2013 All of the Incremental CAF Phase I Support Budgeted For 2013, Plus The Remaining Incremental CAF Phase I Support Not Accepted in 2012

1. The Commission Should Award a Full \$300 Million in 2013 CAF Phase I Incremental Support

To best achieve its broadband deployment goals, ACS urges the Commission to make the full \$300 million budgeted for CAF Phase I incremental support in 2013 available to price cap carriers for broadband deployment. In sizing this mechanism, the Commission has already made the determination that this is the proper amount to devote to “begin[] the process of closing the rural-rural divide by directing additional funds to areas served by price cap carriers in a manner consistent with our overall budget goals and the more limited purpose of Phase I.”⁶

The Commission should not, in contrast, “reduce the term” of 2013 CAF Phase I incremental support, with an attendant reduction in the 2013 CAF Phase I incremental support funding available.⁷ While the Commission has delegated to the Wireline Competition Bureau the authority “to adjust the term length of incremental support amounts, and to pro-rate obligations as appropriate, to the extent Phase II CAF is anticipated to be implemented on a date after the beginning of the calendar year,”⁸ no such adjustment is required or appropriate here. Such a funding reduction would undermine the broadband deployment policy goals of the CAF Phase I mechanism, discussed above. Further, the CAF Phase I mechanism is likely to be in place for, at a minimum, the full 2013 calendar year. In 2012, the Bureau offered the full \$300

⁶ *USF/ICC Transformation Order* at ¶ 128, n. 201.

⁷ Further Notice at ¶ 36.

⁸ *USF/ICC Transformation Order* at ¶ 148.

million budgeted for incremental support to price cap carriers, despite the fact that these awards were not announced until April 2012, and acceptances were not due until July 2012. Despite the fact that more than half of calendar year 2012 had already elapsed when these awards were accepted, the Bureau found no need to adjust the awards to reflect the portion of the year remaining at that time.

Similar circumstances apply in 2013. Even though the Bureau will not announce 2013 CAF Phase I incremental support amounts until partway through the calendar year, they will be intended to cover all of 2013. To conclude otherwise would mean that no CAF Phase I incremental support at all would be available to advance the Commission's broadband deployment goals during early 2013, a result clearly at odds with the Commission's policy goals. The Further Notice waived the December 15, 2012 deadline for announcing 2013 support levels,⁹ but gave no indication that the period to which this support would apply would be less than a full year, consisting of calendar year 2013.

Even if the Commission concludes, as proposed in the Further Notice, that, "the term of rounds so that Phase I incremental support continues no later than when Phase II begins actual disbursements of support,"¹⁰ that rule would be consistent with the award of a full \$300 million in CAF Phase II incremental support in 2013. ACS believes that, at the earliest, the CAF Phase II mechanism could become operational in January 2014; as a result, the Bureau, using this

⁹ Further Notice at ¶ 39.

¹⁰ Further Notice at ¶ 40.

standard, should award the full \$300 million in 2013 CAF Phase I incremental support covering the full 2013 calendar year.

2. The Commission Should Adopt a Hybrid Approach to the Allocation of Unused 2012 CAF Phase I Incremental Support

With respect to the remaining unused portion of 2012 support, roughly \$185 million, ACS supports an approach that combines elements of the two alternatives offered in the Further Notice.¹¹ As one alternative, the Commission proposed to “allocate any funding a carrier previously declined to that carrier, in addition to the funding it would otherwise be allocated for the future round,”¹² effectively giving that carrier a second opportunity to accept previously-declined 2012 support under the revised rules applicable in 2013. As a second alternative, the Commission proposed to “allocate support to carriers based on carriers’ original allocations, regardless of the amount of funding a carrier took 2012,” effectively distributing the unused 2012 support pro-rata among all recipients in proportion to their original awards.¹³

ACS believes that the Commission should distribute the remaining unused portion of 2012 CAF Phase I incremental support in proportion to the original size of the price cap carriers’ respective offers of 2012 support. This will provide all price cap carriers, whether or not they accepted any portion of their CAF Phase I incremental support offers in 2012, with an opportunity to use a portion of this unclaimed funding to advance the Commission’s broadband deployment goals under the incremental support rules the Commission announces for 2013. The

¹¹ Further Notice at ¶ 37.

¹² *Id.*

¹³ *Id.*

Commission should not, in contrast, re-offer the full, original amount of 2012 support that a carrier has already unconditionally rejected back to that carrier in 2013. While ACS agrees that the Commission's restrictions on the use of such support made it extremely difficult for many carriers, including ACS, to accept those awards in 2012, the Commission's goals will be better served by redistributing this support among all price cap carriers according to the Commission's second alternative, *i.e.*, by offering unused 2012 support to all price cap carriers in proportion to the carriers' respective original allocations.

In contrast, those carriers, including ACS, that expressed a desire to use 2012 CAF Phase I incremental support and sought waivers that proposed the conditions that would allow them to do so should receive the opportunity to use the balance of their offered 2012 CAF Phase I incremental support (over and above the portion that they are able to use under the strictures of the Commission's 2012 rules) under the conditions the Commission adopts for 2013. This opportunity would effectively implement a version of the Commission's first alternative with respect to these carriers, *i.e.*, allocating directly to each carrier any funding that such carrier previously *expressed a conditional willingness to use* by filing a waiver request, in addition to the funding it would otherwise be allocated in the 2013 round. In the case of ACS, as discussed above, the ACS Petition for Waiver stated that, of the \$4,185,103.00 it was originally offered by the Commission in 2012, it could use \$1,676,325.00 within the strictures of the Commission's existing rules.¹⁴ Under ACS's proposal, ACS would now receive the option to accept the remaining \$2,508,778.00 under the Commission's 2013 rules, after they are announced.

¹⁴ ACS Petition for Waiver at 7.

ACS proposed three alternative waiver options that would allow it to make full use of the remaining \$2,508,778.00. The relief reflected in certain of those waiver requests is similar to that proposed by the Commission in this Further Notice. ACS continues to believe that the Commission would best serve its broadband deployment public interest goals in Alaska by granting the ACS Petition for Waiver. In the alternative, however, as stated above, given the similarity of the relief sought in the Petition and the changes in the CAF Phase I incremental support rules proposed in the Further Notice, ACS should be offered the opportunity to use the remaining \$2,508,778.00 portion of its 2012 CAF Phase I incremental support under the CAF Phase I incremental support rules the Commission ultimately adopts for 2013. Depending, of course, on how the Commission resolves the open questions regarding the scope of the locations eligible for CAF Phase I incremental support and the structure and level of support available to serve those locations, ACS may be in a position to use that remaining portion of its 2012 CAF Phase I incremental support on that basis.

B. The Commission Should Harmonize Eligibility For CAF Phase I Incremental Support And Eligibility For Frozen High-Cost Support and CAF Phase II Support

Because the 2012 CAF Phase I incremental support rules limited use of this support to customer locations that were unserved by even the slowest tier of fixed broadband appearing on the National Broadband Map, the Commission did not define further parameters governing eligibility at locations where some level of broadband might exist. While ACS supports the Commission's proposal to permit use of CAF Phase I incremental support at locations where there is some level of existing broadband currently available, this change will require the Commission to establish a more detailed definition of the customer locations eligible for such support.

ACS urges the Commission to harmonize, to the greatest degree possible, the eligibility criteria that govern use of CAF Phase I incremental support with those governing use of CAF Phase I frozen support and, indeed, CAF Phase II support. The Commission intended CAF Phase I as a “transitional distribution mechanism” that would “immediately start to accelerate broadband deployment to unserved areas across America” in the period while the Commission developed the forward looking cost model and competitive bidding mechanism required for CAF Phase II.¹⁵ The Commission should therefore design CAF Phase I, including the incremental support portion, such that its immediate boost to broadband deployment also maximizes carrier opportunities eventually to meet the CAF Phase II coverage milestones.

That is, the Commission should permit use of CAF Phase I incremental support at any location not served by an unsubsidized broadband competitor offering “residential fixed *voice and* broadband service,” as previously defined by the Commission. Such a standard builds, in substantial part, on the Commission’s existing CAF Phase I frozen support rules, including the definition of an “unsubsidized competitor,” and focuses directly on the Commission’s goal to foster broadband deployment meeting the CAF Phase II standards.

Under ACS’s proposal, the Commission would adopt a similar standard to govern the use of 2013 CAF Phase I incremental support, targeting this support directly toward the achievement of “universal availability of voice and broadband,” meeting the CAF II parameters, its ultimate public policy goal.¹⁶ As defined in the Commission’s rules, an “unsubsidized competitor” is “a

¹⁵ *USF/ICC Transformation Order* at ¶ 132.

¹⁶ *USF/ICC Transformation Order* at ¶ 149.

facilities-based provider of residential fixed voice and broadband service that does not receive high-cost support.”¹⁷ The Commission has defined “fixed voice and broadband service,” in turn, as:

[O]ne that serves end users primarily at fixed endpoints using stationary equipment, such as the modem that connects an end user's home router, computer, or other Internet access device to the network. This term encompasses fixed wireless broadband services (including services using unlicensed spectrum). The term does not include a broadband service that serves end users primarily using mobile stations.¹⁸

Under the *USF/ICC Transformation Order*, starting in 2013, CAF Phase I frozen support must increasingly be used at locations that are not served by such an unsubsidized competitor at a speed of at least 4 Mbps downstream and 1 Mbps upstream.¹⁹

C. The Commission Should Use a Broadband Speed Proxy of 6 Mbps/1.5 Mbps for Purposes of Determining Locations Eligible for CAF Phase I Incremental Support

ACS supports the Commission’s proposal to permit expanded use of CAF Phase I incremental support to locations lacking access to broadband at the higher speed the Commission has established as the objective for universal service.²⁰ Doing so should maximize the opportunity presented here to use CAF Phase I Incremental Support to advance the Commission’s longer-term policy goal under CAF Phase II to accelerate deployment of

¹⁷ 47 C.F.R. § 54.5.

¹⁸ *USF/ICC Transformation Order* at ¶ 103 n. 169.

¹⁹ *USF/ICC Transformation Order* at ¶ 103 n. 168, ¶ 150.

²⁰ Further Notice at ¶ 9. (“[W]e propose to expand the definition of unserved areas to include any census block lacking access to broadband with speeds of 4 Mbps downstream and 1 Mbps upstream, which would be consistent with the minimum standard for broadband service required from carriers receiving Connect America Phase I incremental support and would be in line with the Commission’s broadband speed benchmark for Connect America Phase II recipients.”).

broadband with a minimum speed of 6 Mbps downstream and 1.5 Mbps upstream.²¹ By making this change, the Commission will significantly expand the number of locations where price cap carriers are eligible to use CAF Phase I incremental support, multiplying the potential public interest benefits to be gained from this support, and maximizing the opportunity for customers to receive new or improved broadband service. In addition, by facilitating carrier investment in necessary upgrades to meet CAF Phase II service standards, the Commission will accelerate carrier progress toward meeting the Commission's CAF Phase II broadband deployment goals. Indeed, for many of these same reasons, the ACS Petition for Waiver requested just this type of relief, seeking authority to use 2012 CAF Phase I incremental support to upgrade obsolete equipment that can only deliver broadband falling within the Commission's lowest broadband speed tier, with a speed between 768 kbps and 1.5 Mbps, in areas where ACS is the only provider of broadband.²²

Because the National Broadband Map, which currently provides the most detailed information available on the speed and availability of broadband services, does not contain a speed tier cutoff at 4 Mbps downstream and 1 Mbps upstream, however, ACS agrees that the Commission will need to establish a proxy for its chosen speed standard. ACS believes that the

²¹ *USF/ICC Transformation Order* at ¶ 160 (determining that determined that price cap carriers receiving CAF Phase II support would be required, by the end of the third year, to offer “at least 4 Mbps/1 Mbps broadband service to at least 85 percent of their high-cost locations – including locations on Tribal lands – covered by the state-level commitment By the end of the fifth year, price cap ETCs must offer at least 4 Mbps/1 Mbps broadband service to all supported locations, and at least 6 Mbps/1.5 Mbps to a number of supported locations to be specified.”).

²² ACS Petition for Waiver at 10.

Commission should permit the use of CAF Phase I incremental support to upgrade broadband at any location that does not meet the Commission's minimum broadband speed requirements that will apply under CAF Phase II. Specifically, ACS urges the Commission to adopt 6 Mbps/1.5 Mbps as the speed proxy that best serves the Commission's public interest goals. This speed tier is the one that will ultimately govern compliance under CAF Phase II, meaning that this is the speed to which the Commission's rules should incentivize carriers' broadband deployment efforts.

Furthermore, the 6 Mbps/1.5 Mbps speed tier has the further benefit of being the lowest speed tier reflected on the National Broadband Map that unequivocally meets the Commission's 4 Mbps/1 Mbps broadband threshold. It is therefore easy to administer, because it requires no further proxy at all. To the extent that the Commission has not yet decided how to measure price cap carriers' compliance with the 4 Mbps/1 Mbps standard that applies under CAF Phase II, it should err on the side of caution today, and permit price cap carriers to use CAF Phase I incremental support to upgrade any location that falls below the 6 Mbps/1.5 Mbps standard that the Commission ultimately will require under CAF Phase II.

In deploying or upgrading service at these locations, the Commission should require carriers to deploy service only at the 4 Mbps/1 Mbps level required under CAF Phase II, and not the faster, 6 Mbps/1.5 Mbps level used to establish eligibility. The Commission has not yet established the portion of a carrier's CAF Phase II area where 6 Mbps/1.5 Mbps service will be required. Therefore, if a price cap carrier elects to use additional amounts of its own capital to deploy 6 Mbps/1.5 Mbps service to a location supported by the CAF Phase I incremental support

mechanism, it should be permitted to make that choice, but it should not be required to do so under the Commission's rules.

In making this change, ACS urges the Commission, in any event, not to rely on the National Broadband Map's coverage data for broadband service at a speed of 3 Mbps downstream and 768 kbps upstream, as suggested in the Further Notice, at a minimum unless it intends to do so in judging price cap carriers' compliance under CAF Phase II.²³ While the Commission has used the 3 Mbps/768 kbps proxy for purposes of CAF Phase I, it is not yet clear whether that proxy will continue to govern carrier compliance under CAF Phase II. Indeed, the Wireline Competition Bureau recently sought comment on precisely that question.²⁴

In addition to increasing the speed threshold below which price cap carriers are eligible to deploy or upgrade broadband using CAF Phase I incremental support, ACS believes that the Commission should permit the use of CAF Phase I incremental support to upgrade broadband at any location not served by a provider meeting the Commission's other minimum broadband requirements under CAF Phase II, including latency and capacity. Price cap carriers will need to comply with these mandates, in addition to those related to speed, under the CAF Phase II framework. In Alaska, a lack of terrestrial middle mile transport facilities and in-state Internet access points limit the performance of broadband. These factors not only can constrain the broadband speeds ACS can offer, but also increase latency and, in extreme cases, require ACS to

²³ Further Notice at ¶ 12.

²⁴ Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Seeks Comment on Procedures relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, DA 12-2075 (Wir. Comp. Bur., rel. Dec. 27, 2012), at ¶ 9.

place other limits on the availability of its service. In some cases, it is a lack of availability of such middle mile capacity, even more than the architecture or capabilities of the local loop plant, that limits ACS's ability to offer faster broadband more widely.

Under the standard proposed by ACS, price cap carriers, such as ACS, would in many cases be permitted to deploy or upgrade facilities in many otherwise unserved or underserved areas where WISPs claim to offer broadband coverage on the National Broadband Map. These WISPs' service offerings often fail to include voice as part of the package, provide service that is subject to disruption or unavailability due to the vagaries of weather conditions, topography, conditions at the customer premises, interference from other radio emissions, or other factors. In addition, according to the National Broadband Map, large portions of the coverage areas claimed by WISPs do not meet the minimum speed thresholds discussed above. ACS estimates that, in Alaska alone, many thousands of customer locations could become eligible for support under the CAF Phase I incremental support mechanism if areas served exclusively by these WISPs were eligible.

II. THE STRUCTURE AND LEVEL OF 2013 CAF PHASE I INCREMENTAL SUPPORT ARE CRITICAL TO ITS SUCCESS

ACS supports the Commission's proposals in the Further Notice to increase support levels available for individual deployment projects under CAF Phase I incremental support for 2013.²⁵ In the ACS Petition for Waiver, ACS has previously discussed at length the many reasons why, with respect to the majority of the CAF Phase I incremental support the Commission offered in 2012, ACS will be unable to adhere to the requirement to deploy new

²⁵ Further Notice at ¶¶ 17 *et. seq.*

broadband to at least one previously unserved customer location for every \$775.00 in support used. While ACS is encouraged to see the Commission's Further Notice propose higher support levels and potential new support structures, depending on the final support parameters the Commission adopts, ACS remains concerned that the support levels proposed will continue to be too low to reflect the high costs of broadband deployment in Alaska.

A. If the Commission Offers Per-Mile Support for Deploying Transport Facilities, Support Must be Sufficient to Support the High Costs of Deployment in Alaska

As one alternative proposed in the Further Notice, the Commission would require carriers to satisfy their 2013 CAF Phase I incremental support buildout obligations “based on a metric that measures the number of miles of fiber deployed for a defined dollar amount, with a requirement to connect to a minimum number of unserved locations per mile.”²⁶ The Commission specifically seeks comment on variations in the cost per fiber mile among price cap carriers, whether it should adopt a uniform metric for all recipients of CAF Phase I incremental support, and specifically whether the proposed support figure of \$35,784 per mile proposed by Windstream in connection with its 2012 CAF Phase I incremental support waiver petition is appropriate.²⁷

As a threshold matter, ACS believes that, if the Commission adopts such a per-mile approach, it should clarify the precise compliance requirements associated with it. In various places, the Further Notice describes the metric as “the number of miles of fiber,” a “subsidy . . . per mile,” the “cost per fiber mile,” or the “miles of fiber deployed.”²⁸ ACS is unsure, based on

²⁶ Further Notice at ¶ 18.

²⁷ Further Notice at ¶ 19.

²⁸ Further Notice at ¶¶ 18-20.

these references, whether the Commission intends to offer a subsidy per linear mile of each route along which fiber is deployed, regardless of the capacity of the fiber so deployed, or whether the proposed subsidy would be per fiber strand, per mile. In many contexts, references to “fiber miles” and similar terms refer to the product of the number of strands of fiber and the number of miles covered by the route along which fiber is deployed.²⁹

ACS believes that, in any event, the Commission should *not* adopt a uniform amount of per-mile support for all CAF Phase I incremental support recipients.³⁰ In response to the Commission’s question whether costs per fiber mile vary among price cap carriers, ACS can confirm that costs per mile *do* in fact vary significantly among price cap carriers. ACS faces costs to deploy fiber optic cable far higher than the Windstream figures cited by the Commission, including either the proposed \$35,784 per mile subsidy, or Windstream’s \$43,036 cost.³¹

ACS’s higher per-mile costs result from the unique challenges ACS faces in deploying facilities, particularly fiber, in Alaska. These challenges have been well-catalogued by ACS elsewhere in this proceeding. Among other factors, ACS’s labor costs for its unionized

²⁹ See, e.g., Dark Fiber Resource, “Fiber Miles vs. Fiber Route Miles,” available at: <http://www.darkfiberresource.com/fiber-miles-vs-fiber-route-miles> (“Fiber Miles are measured by taking the number of strands in a fiber conduit and multiplying that number by the route distance of the conduit. For example, a 10 mile[] conduit with 144 fiber strands = 1,440 fiber miles.”) (visited Jan. 25, 2013).

³⁰ Further Notice at ¶ 19.

³¹ Further Notice at ¶ 19; *Connect America Fund*, WC Docket No. 10-90, Windstream Election and Petition for Waiver (filed July 24, 2012), at 15 n. 38. In making this statement, ACS is assuming that these figures reflect Windstream’s costs of deploying fiber of any capacity per linear mile of each route along which fiber is deployed, regardless of the number of strands so deployed, although the result is likely also true under either interpretation of the Commission’s proposal discussed above.

workforce are among the highest in the nation. In order to maximize its output during the extremely short construction season, when labor is already in peak demand, ACS must pay even higher overtime rates to deploy network facilities. Alaska's harsh climate requires ACS to bury its plant at a greater depth than may prevail in the Lower 48 states. Transport costs to deliver materials to the work site are higher than they are to locations in the Lower 48 states, owing both to the additional distance required to reach Alaska, and to the cost and difficulty of travel once the fiber and other supplies arrive in the state.

As ACS has described elsewhere in this proceeding, the CAF Phase II cost model under consideration by the Commission substantially understates costs of delivering broadband in Alaska. The CQBAT model would have precipitously reduced ACS's current high cost support levels by some two-thirds, despite requiring ACS to make prohibitive capital investments to deliver broadband meeting the Commission's CAF Phase II standards. Although ACS pointed out the shortcomings of this model, the Commission's revised model, the Connect America Cost Model ("CACM") currently produces support levels for ACS that are even lower. As far as ACS can determine, the Commission has so far failed to incorporate the changes ACS has suggested, such as a true reflection of transport costs in Alaska, into the CACM. As a result, the use of this cost model in its present form would be unsuitable as a basis for determining any ACS support amounts at this time.

Similarly, there are substantial differences between carriers in the number of locations that can be served per mile of transport facilities deployed. The Commission should not assume that the number of customer locations reached by transport facilities across any given distance

will be the same in rural Louisiana or Colorado as in Alaska, which has the lowest population density in the nation.

In short, if the Commission adopts an option to support transport facilities based on a defined dollar amount per mile, it must ensure that both the amount of support per mile and the minimum number of unserved locations required to be served reflect real-world costs and population density.

B. The Commission Should Expand Eligibility Beyond Fiber and Include All Necessary Transport between the Node and the Internet POP

In addition, per-mile support should be made available wherever necessary to reach unserved locations, not just for “any fiber [the recipient] builds between its central office and an unserved location.”³² Specifically, support should be available for other types of facilities necessary to bring Internet connectivity to unserved locations, and at other locations, not solely “second-mile” fiber facilities between the central office and the node.

In many cases, ACS’s broadband deployment plans are constrained as much by the lack of backhaul transport facility between the central office and Anchorage, where broadband data can be carried on undersea cables linking Alaska to its nearest Internet access points, in Oregon or Washington, as they are by limitations on the capabilities on the loop side of the central office. While substantial support is unquestionably a prerequisite for ACS to make the necessary upgrades to the transport between its central office and an unserved or underserved customer location, it is equally important in many cases for CAF Phase I incremental support to help defray the costs of necessary upgrades on the trunk side of the central office as well. ACS

³² Further Notice at ¶ 18.

supports allowing CAF Phase I support to be used for investment in such transport facilities as are necessary to bring Internet connectivity to unserved locations.

It also will be vital for the Commission to offer support for deployment of transport technologies other than fiber. In some parts of Alaska, fiber deployment is prohibitively expensive, and not the most efficient solution for a given demand.- In some cases, such as to cross a body of water, the most efficient and cost-effective transport solution may be deploying microwave links. In other cases, satellite-delivered middle-mile transport may be necessary to carry broadband data between remote parts of Alaska and Anchorage, where undersea cables linking Alaska to the Lower 48 complete the transmission. In yet other cases, it may be most efficient for ACS to augment existing copper feeder plant between the central office and the node, if extra capacity is needed to handle the increase in data traffic resulting from an increase in broadband speeds, instead of replacing these existing facilities with new fiber. Recipients of CAF Phase I incremental support have an incentive to use the funds to bring broadband to as many locations as possible; each carrier should be permitted to determine the most efficient way to use the support within its unique network architecture.

C. The Commission Should Retain Per-Location Support as an Alternative on a Standalone Basis

1. Per-Location Support Should Be Set at a Level that Provides Sufficient Support to Maximize Broadband Deployment

In conjunction with any decision to restructure the CAF Phase I incremental support mechanism, the Commission should provide a per-location subsidy. If the Commission adopts the per-mile transport subsidy, discussed above, it should also provide an additional, per-location amount sufficient to reflect the costs of installing, replacing, or upgrading broadband equipment

to serve eligible locations to which qualifying broadband service can be delivered from that node.

Even if the Commission adopts such a per-location supplement to its per-mile transport subsidy approach, it should continue to permit carriers to elect to receive CAF Phase I incremental support in 2013 based on a unitary, per-location structure similar to that offered in 2012. ACS therefore supports the Commission's proposal in the Further Notice to retain the unitary, per-location metric,³³ but urges the Commission to increase it substantially above the \$775 per location level.

In structuring such unitary, per-location support, ACS believes that a tiered approach may be appropriate, depending on the level of broadband service currently existing at an eligible location. At locations that currently have broadband service that does not meet the Commission's CAF Phase II standards, \$775.00 per location may be adequate for ACS to make the necessary upgrades. In the ACS Petition for Waiver regarding 2012 CAF Phase I incremental support, for example, ACS stated that \$775.00 per location would be sufficient to permit it to "upgrade facilities that currently provide service falling within the Commission's lowest broadband speed tier, with a speed between 768 kbps and 1.5 Mbps, to achieve the Commission's 4 Mbps/1 Mbps mandate."³⁴

At unserved locations, and even at some underserved locations where greater investment in fiber or other transport facilities between the node and the Internet POP would be required, a

³³ Further Notice at ¶ 35.

³⁴ ACS Petition for Waiver at 10.

higher level of per-location support may be necessary. Depending on the extent and nature of the facilities required, ACS's analysis showed that it could deploy broadband to such locations, including a reasonable amount of ACS co-investment, using support tiers ranging from \$3,200.00 per location to \$7,800.00 per location.³⁵

ACS did not propose any higher per-location support tiers in its Petition for Waiver because those it did propose would have enabled it to utilize the full amount of its 2012 CAF Phase I incremental support, before reaching the full number of customer locations otherwise required under the Commission's rules. Depending on the precise rules the Commission adopts to govern use of 2013 CAF Phase I incremental support, ACS's per-location costs may vary. Based on a preliminary analysis, ACS believes that it would require CAF Phase I incremental per-location support for deployment in 2013 ranging from approximately \$1,500.00 to \$10,000.00. This analysis assumes investment of ACS capital at levels commensurate with those proposed in the ACS Petition for Waiver, and further assumes that the Commission will adopt rules to govern use of 2013 CAF Phase I incremental support that would permit use of such support to deploy or upgrade broadband service at customer locations that are not served by an unsubsidized competitor that meets the minimum 6 Mbps/1.5 Mbps speed proxy (including those located in partially-served census blocks and those served only by WISPs at speeds below that threshold), as well as the other latency and capacity requirements applicable under CAF Phase II.

³⁵ ACS Petition for Waiver at 8, 12.

2. Per-Location Support Should Not Derived from the Results of the High Cost Proxy Model

ACS agrees that there should be an upward adjustment in CAF Phase I incremental support levels for locations, such as Alaska, where deployment costs are high.³⁶ ACS believes, however, that the Commission should not establish such tiers based on the costs or any variation among wire centers estimated using the Commission's high-cost proxy model for non-rural areas.³⁷ While the Commission states that, "[u]sing the existing high-cost proxy model, the Bureau can estimate the average cost per location of deploying broadband-capable infrastructure for a given wire center,"³⁸ that model did not include costs for Alaska because, when it was developed, ACS's service territory was not included within its scope. As a result, when computing CAF Phase I incremental support awards in 2012, the Bureau "use[d] data submitted by Alaska Communications Systems Group, Inc. for its wire centers in that state, which it developed using both internal and commercially available resources."³⁹ The Bureau has not published the details of its analysis using these data in any detail. Nevertheless, because of the disparity in the data sets used for Alaska, as compared to the rest of the nation, and because the high cost proxy model ("HCPM") was never intended for use in estimating costs in Alaska, ACS believes that it will not fully capture to true disparity between the mean or median cost of deploying broadband in the Lower 48 states and the costs ACS incurs in Alaska. Certainly, even

³⁶ Further Notice at ¶ 33.

³⁷ Further Notice at ¶¶ 29-35.

³⁸ Further Notice at ¶ 30.

³⁹ *Connect America Fund*, WC Docket No. 10-90, Public Notice, "Wireline Competition Bureau Announces Support Amounts For Connect America Fund Phase One Incremental Support, DA 12-639, 27 FCC Rcd 4203 (Wir. Comp. Bur. 2012), at 2.

following a sustained and concerted effort by ACS to bring the inadequacy of both the CQBAT and CACM models in estimating costs in Alaska to the Commission's attention, both mechanisms continue to understate ACS's costs in dramatic fashion. As a result, ACS would have grave concerns that the HCPM would fall similarly short.

Indeed, as subsequent events have revealed, the \$775.00 per-location mandate that the Commission developed, in part based on the results of the HCPM, to govern 2012 CAF Phase I incremental support was too low to maximize the benefits of the CAF Phase I incremental support mechanism. The waiver petitions filed by ACS, Windstream, and CenturyLink demonstrate the many reasons why this level of support falls woefully short of what is needed to maximize the impact of the CAF Phase I incremental support mechanism on broadband deployment in high-cost areas.

As a result, mere adjustments to that per-location amount based on the variation of costs in a given wire center from the national mean is unlikely to increase support to the necessary levels. Both the ACS estimates above, and the Further Notice itself point to required per-location support amounts in many-thousands-of-dollars range to reach locations unserved by broadband. Specifically, the Further Notice seeks comment on whether Windstream's proposal to provide a subsidy of \$35,874.00 per mile of fiber would be sufficient, while recognizing that Windstream has indicated that it would be able to serve an average of roughly ten unserved locations.⁴⁰ Even those levels of funding, which, as ACS has explained above, inadequately subsidize ACS's costs in Alaska, imply a per-location support amount in excess of \$3,500 for

⁴⁰ Further Notice at ¶¶ 19-20.

fiber deployment alone. And, as also discussed above, additional per-location support will be required to cover necessary installation or upgrade of equipment at the node or in last-mile connections to subscriber locations.

D. The Commission Should Not Reduce the Scope of CAF Phase II Support based on a Price Cap Carrier's Acceptance of 2013 CAF Phase I Incremental Support

ACS strongly believes that the Commission should not expand the scope of the CAF Phase II mechanism to include additional extremely high cost areas that are currently projected to receive support under the Remote Areas Fund, based on a price cap carrier's acceptance of 2013 CAF Phase I incremental support. The Further Notice expresses a vague concern as to whether there is an issue of "double support for fiber construction" if a carrier uses CAF Phase I incremental support to construct fiber within an area that is included in the CAF Phase II mechanism.⁴¹ The concern apparently stems from a question whether, if the Commission adopts a greenfield model to estimate broadband costs in Phase II, the existence within a carrier's CAF Phase II service area of facilities of previously funded with CAF Phase I incremental support would somehow distort the results.

ACS believes that such concern is unwarranted. *First*, the Commission has already decided that the CAF Phase II mechanism should "offer each price cap ETC a model-derived support amount in exchange for a commitment to serve all locations in its service territory in a state that, based on the model, fall within the high-cost range and are not served by a competing,

⁴¹ Further Notice at ¶ 28.

unsubsidized provider.”⁴² This service commitment is not limited to the mere deployment of facilities. To provide broadband services, carriers not only incur capital costs to engineer and deploy broadband facilities, but also ongoing costs to operate and maintain those facilities; market, sell, and provision broadband service; provide billing, collection, and other customer service and support functions; and comply with federal and state regulatory requirements, among many other costs. A provider, such as ACS, must ensure that it can meet these ongoing expenses from service revenues in the years following its initial capital investment, but these costs are in no way “included” in that initial capital investment.

For this very reason, the Commission created the CAF Phase II mechanism to provide support over a five-year period for the costs “to serve areas where costs are above a specified benchmark, but below a second ‘extremely high-cost’ benchmark.”⁴³ By definition, the Commission has concluded that sufficient CAF Phase II support is needed in these areas on an ongoing basis, not only to foster deployment of broadband facilities, but also to help ensure the availability of sustainable broadband services.

Second, the very point of the Commission’s CAF Phase II forward looking cost model, particularly if a greenfield approach is chosen, is to estimate the “efficient amount of support required to extend and sustain robust, scalable broadband in high-cost areas,” while minimizing the impact of a particular provider’s existing embedded costs or network technologies.⁴⁴ Under this approach, it would make no more sense to adjust the model based on specific carrier

⁴² *USF/ICC Transformation Order* at ¶ 156.

⁴³ *Id.*

⁴⁴ *USF/ICC Transformation Order* at ¶ 24.

investments that were partially funded with CAF Phase I incremental support than in would to adjust for any other carrier investments, whether or not those may have been made with the assistance of previous federal high cost support. The statewide commitment the Commission seeks in exchange for a price cap carrier's acceptance of CAF Phase II support is one that the Commission measures using coverage milestones, not specific facility deployment metrics. There is no basis for excluding census blocks where the price cap carrier made investment funded with such support or for reducing the carrier's CAF Phase II support amounts to reflect this investment. In contrast, the Commission should use CAF Phase I incremental support as an opportunity to accelerate the deployment of broadband meeting its CAF Phase II standards and enhance the ability of price cap carriers to meet these lofty Commission aspirations.

Further, CAF Phase II support levels and service commitments are not linked to a price cap carrier's investment in any particular facility at any specific location. Under the Commission's design, a census block is excluded from this commitment if (i) it falls above or below the high-cost range established by the model; or (ii) objective evidence, in the form of an unsubsidized competitor, demonstrates that federal support is not necessary to ensure that broadband meeting the Commission's CAF Phase II standards is available. The model, wisely, does *not* exclude any census block merely because a price cap carrier has previously received federal high cost universal service support to provide service at that location. In the same way, a census block may be included in the CAF Phase II commitment, even if broadband meeting the Commission's CAF Phase II standard is already available throughout the census block, and no immediate capital investment is needed to offer broadband service, and even if the census block is in an area for which the carrier has previously received high cost support.

E. Oversight and Accountability Issues

The Further Notice seeking comment on various implementation and monitoring issues related to the proposed changes to the CAF Phase I incremental support mechanism. Given the broad range of possible reforms to the CAF Phase I incremental support mechanism discussed by the Commission, it is difficult to comment in detail on many of these. Nevertheless, ACS offers the following thoughts:

First, the Commission should not require price cap carriers to identify specific census blocks where they will use 2013 CAF Phase I Incremental Support in advance, although it should accept and review such information if a carrier offers it using a verification process similar to the one in effect in 2012.⁴⁵ ACS found the process of identifying, compiling, and submitting the detailed list of census blocks where it planned to use 2012 CAF Phase I incremental support to be difficult and burdensome within the 90-day period permitted for analysis of the Commission's offer of support. Nevertheless, as described more fully in the ACS Petition for Waiver, ACS recognizes that the Commission's review of this list helped ACS avert a potentially serious and costly error in its use of 2012 CAF Phase I incremental support.

Second, to the extent that a carrier offers such information, the Commission should afford it confidential treatment, both for 2012 CAF Phase I incremental support plans previously submitted and for any that are submitted for 2013.⁴⁶ Particularly in the highly competitive markets in which ACS operates, these broadband investment plans are highly competitively sensitive. They are not disclosed publicly in any forum. Furthermore, premature disclosure

⁴⁵ Further Notice at ¶¶ 25, 46.

⁴⁶ Further Notice at ¶¶ 48.

could allow ACS's competitors to gain an unfair competitive advantage in formulating their own capital investment plans in broadband facilities, ultimately causing harm to ACS and consumers alike.

Third, the Commission should not require a carrier, before accepting CAF Phase I incremental support, first to provide broadband to any unserved location within its territory that could be constructed at a cost below the benchmark.⁴⁷ There are numerous reasons why any specific location may lack broadband. Furthermore, capital for facilities construction is a scarce and finite resource, and a carrier should not be penalized for prioritizing deployment that can leverage CAF Phase I Incremental Support to maximize broadband investment. Particularly in Alaska, where deployment costs are high and market forces exert a strong influence on capital investment planning, such a requirement is unnecessary and could impede, rather than foster, broadband deployment with CAF Phase I incremental support.

Fourth, a price cap carrier should not be required to provide a set amount in matching funds to accompany its acceptance of CAF Phase I incremental support.⁴⁸ A carrier's ability to make such investment will vary greatly with the revenue opportunity offered by a given deployment project, and the costs of deployment among individual locations may vary greatly. Market forces will therefore ensure that a carrier will co-invest up to the level at which the deployment makes sound business sense. As described in its Petition for Waiver, the problems

⁴⁷ Further Notice at ¶ 26.

⁴⁸ Further Notice at ¶ 26.

ACS anticipates relate more to the risk that CAF Phase I incremental support will be inadequate to enable economically feasible, rather than that the support will be excessive.

F. The Census Block Challenge Process Should Be Forward-Looking

ACS previously filed comments and reply comments in response to the Wireline Competition Bureau's Public Notice seeking comment on the list of potentially unserved census blocks within the service areas of price cap carriers that are shown as unserved by broadband on the National Broadband Map address many comment on the list of unserved census blocks.⁴⁹ In those comments, ACS urged the Commission to make its census block challenge process forward looking, and to conclude it at least 90 days in advance of the deadline for carriers to accept 2013 CAF Phase I incremental support, in order to enable these carriers to make a meaningful assessment of their opportunities to deploy broadband facilities using this support.

ACS's comments and reply comments address many of the questions regarding the intent and scope of the census block challenge process raised in the Further Notice. ACS hereby refers the Commission to those comments and reply comments, provided as **Exhibits 1 and 2**, respectively, and incorporates them herein by reference.

* * * * *

⁴⁹ Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support*, DA 12-1961 (Wir. Comp. Bur., rel. Dec. 5, 2012) ("Public Notice"); *see also* Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Updates the List of Potentially Unserved Census Blocks in Price Cap Areas and Extends the Deadline for Comment on the List*, DA 12-2001 (Wir. Comp. Bur., rel. Dec. 10, 2012); *Connect America Fund*, WC Docket No. 10-90, Comments of Alaska Communications Systems (filed Jan. 9, 2013) and Reply Comments of Alaska Communications Systems (filed Jan. 24, 2013).

III. CONCLUSION

For the foregoing reasons, ACS hereby requests that the Commission refine the CAF Phase I incremental support mechanism for 2013 as discussed herein.

Respectfully submitted,

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EXHIBIT 1

Comments of Alaska Communications Systems (filed Jan. 9, 2013)
(With Attachment 1 Omitted)

Regarding

Connect America Fund, WC Docket No. 10-90, Public Notice: Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support, DA 12-1961 (rel. Dec. 5, 2012)

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Public Notice: Wireline Competition Bureau)	DA 12-1961
Seeks Comment on Areas Shown as)	DA 12-2001
Unserved on the National Broadband Map)	
for Connect America Phase I Incremental)	
Support)	

Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”),¹ hereby submits these comments in response to the Public Notice (“Public Notice”)² issued by the Wireline Competition Bureau (“Bureau”) in the above-captioned proceeding, seeking comment on the list of potentially unserved census blocks within the service areas of price cap carriers that are shown as unserved by broadband on the National Broadband Map. Regarding the validity of this list of census blocks, the Public Notice also invites commenters to “bring any information they deem relevant to the Bureau’s attention.”³

¹ In these comments, “Alaska Communications Systems” signifies the operating subsidiaries of Alaska Communications Systems Group, Inc., which include the incumbent local exchange carriers (“ILECs”), ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc., as well as the additional operating subsidiaries, ACS Wireless, Inc., ACS Long Distance, Inc., ACS Internet, Inc., ACS Cable, Inc., Alaska Fiber Star, and WCI Cable. Together, these ACS companies provide retail and wholesale wireline and wireless telecommunications, information, broadband, and other services to residential and business customers in the State of Alaska and beyond, using ACS’s intrastate and interstate facilities.

² Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support*, DA 12-1961 (Wir. Comp. Bur., rel. Dec. 5, 2012) (“Public Notice”); see also Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Updates the List of Potentially Unserved Census Blocks in Price Cap Areas and Extends the Deadline for Comment on the List*, DA 12-2001 (Wir. Comp. Bur., rel. Dec. 10, 2012).

³ Public Notice, at 2.

In these comments, ACS urges the Commission to confirm that the same version of the National Broadband Map that was controlling when price cap carriers received Connect America Fund (“CAF”) Phase I incremental and frozen support will be used to assess ongoing compliance with the Commission’s rules governing use of such support. To plan broadband investments that comply with CAF Phase I rules over the required time horizon, price cap ILECs need a stable map, not one that evolves and changes over time.

In addition, ACS has identified 1991 unserved census blocks in Alaska that appear in the data set associated with the Public Notice, but that do not appear in the data set available for direct download from the National Broadband Map web site.

A. The Commission Should Use the Same Version of the National Broadband Map to Assess Ongoing Compliance with Rules Governing Use of CAF Phase I Incremental and Frozen Support as was Controlling when such Support was Elected or Received

Price cap carriers, including ACS, are subject to a series of requirements governing their use of CAF Phase I incremental and frozen support. Recipient carriers must use such incremental support to deploy broadband to customer locations “in areas shown on the most current version of the National Broadband Map as unserved by fixed broadband with a minimum speed of 768 kbps downstream and 200 kbps upstream.”⁴ By way of clarification, the Bureau subsequently explained that, when a price cap carrier certifies in connection with accepting CAF Phase I incremental support that the locations to which it will deploy are “shown as unserved by fixed broadband on the ‘current’ version of the National Broadband Map,” it should use the

⁴ *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 ¶¶ 495 (2011) (“*USF/ICC Transformation Order*”) (subsequent history omitted), at ¶ 146.

version of the National Broadband Map “that was publicly available on the National Broadband Map website on the date eligible support amounts were announced” in April 2012.⁵

ACS requests that the Commission further clarify that the same version of the National Broadband Map will govern price cap carriers’ ongoing compliance with the rules governing the use of CAF Phase I incremental support accepted in 2012. Price cap carriers have three years during which to use such support to deploy broadband to unserved customer locations. The Bureau directed these carriers to use the version of the National Broadband Map in effect when the Commission announced its offers of CAF Phase I incremental support when making their elections, despite the fact that the map was updated after those offers were announced, but before the 90-day acceptance period had run. In doing so, the Bureau acknowledged that the data set on which carriers were making their deployment plans must remain in a state of repose in order to enable carriers to formulate meaningful deployment plans.⁶

Such considerations are no less important as the three-year period unfolds during which carriers will execute these deployment plans. The Bureau has properly stated, given the short, 90-day period provided for price cap carrier acceptance of CAF Phase I incremental support, that they were required only to make a “good faith” effort to identify the wire centers and census blocks. Going forward, the Commission should similarly confirm that the original governing version of the National Broadband Map will be used to confirm compliance with the

⁵ *Connect America Fund*, WC Docket No. 10-90, Order, DA 12-1155, 27 FCC Rcd. 8141 (2012), at ¶ 8.

⁶ *Id.*, at ¶ 8 (“The Commission intended for carriers to have 90 days to determine how much incremental support they would accept and which wire centers and census blocks they would deploy to in order to meet their CAF Phase I commitments.¹³ To the extent the National Broadband Map data is updated during the 90-day period in which carriers are evaluating how much incremental support they will accept, that could leave carriers with less time to evaluate the updated version of the map.”)

Commission's rules regarding use of CAF Phase I incremental support, both with respect to execution of these original deployment plans, and with respect to any adjustments that may be necessary. To hold otherwise would virtually assure that the price cap carriers' deployment plans could not be executed as originally conceived, and expose carriers accepting CAF Phase I incremental support to compliance risks based solely on the order and timing of their deployment efforts across the three-year buildout period. The Commission's mandate requiring buildout to one currently unserved customer location for every \$775.00 in CAF Phase I incremental support that a price cap carrier accepts is already extremely ambitious. Forcing price cap carriers to shift deployment plans dynamically to alternative locations based on subsequent updates to the National Broadband Map would inevitably place their overall deployment commitments in jeopardy. Particularly in Alaska, in light of the short construction season, limited pool of qualified labor, and high costs, such deployment require careful pre-planning well in advance. Further, assuming that most price cap carriers, like ACS, chose the lowest-cost eligible locations for their buildout commitments, alternative locations are likely more costly, perhaps pushing them beyond the zone where buildout is reasonable in light of the CAF Phase I incremental support available.

A similar need arises with respect to compliance with the broadband commitments required in connection with CAF Phase I frozen support. Beginning in 2013, the *USF/ICC Transformation Order* requires price cap carriers to use an increasing amount of their CAF Phase I frozen support "to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor."⁷

⁷ *USF/ICC Transformation Order*, at ¶ 150.

While many compliance questions remain unanswered regarding the proper application and scope of these requirements, such as how to interpret the definition of an “unsubsidized competitor,” and the types of activities and costs that fall within the scope of “build and operate,”⁸ it is also critical that the Commission establish clearly which version of the National Broadband Map will govern. However the Commission chooses to interpret the definition of an “unsubsidized competitor,” it will need to establish clearly the version of the National Broadband Map that will be used to determine the geographic scope of their services.

To the extent that the Commission makes additional CAF Phase I incremental support available for all or part of 2013,⁹ the Commission also should clarify that the version of the National Broadband Map that will govern price cap carriers’ election of support and compliance with the rules governing their use of such support accepted in 2013 will be a version designated at least 90 days *prior to* the deadline for election of such support, following an appropriate opportunity for challenges and corrections to the map.¹⁰ Doing so will greatly facilitate price cap carriers’ network and investment planning, and encourage greater participation in the Phase I build-out, to spur accelerated broadband deployment to consumers who lack access to adequate

⁸ *Connect America Fund*, WC Docket No. 10-90, Letter from Karen Brinkmann, Counsel for ACS, to Marlene H. Dortch, Secretary, FCC (filed Nov. 19, 2012), Attachment (Slide Presentation) at 5.

⁹ Further rounds of CAF Phase I incremental funding are to be made available annually until CAF Phase II is implemented. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17722, ¶. 148. *See also Connect America Fund*, Further Notice of Proposed Rulemaking, FCC 12-138 (rel. Nov. 19, 2012) (“*CAF I FNPRM*”), ¶ 6.

¹⁰ *CAF I FNPRM* at ¶¶ 15-16.

high-speed capability, and face “little prospect of receiving service meeting [the Commission’s] broadband standard within the next three years,” in the absence of CAF support.¹¹

Given that CAF Phase I support is intended to be a temporary, transitional mechanism that will be supplanted by CAF Phase II, ACS believes that the Commission should choose a single version of the National Broadband Map to govern compliance throughout the period when the CAF Phase I frozen and incremental support mechanisms are in effect. Judging compliance based on updates published after the start of a given funding year could expose a price cap carrier to compliance risks based on information that was unknown and unknowable when it planned its use of CAF Phase I support.

B. The Commission Should Add 1991 Census Blocks in Alaska to the Data Set of Unserved Census Blocks Available from the National Broadband Map Web Site.

In reviewing the Bureau’s updated list of unserved census blocks published in this proceeding, it has identified 1991 census blocks that are correctly listed as unserved, but that do not appear in the data set of unserved census blocks available for download from the National Broadband Map web site. These census blocks are identified in **Attachment 1** to these comments.

Needless to say, it is critical that ACS have access to a complete and correct list of unserved census blocks for purposes of planning its use of CAF Phase I incremental and frozen support. ACS has been using the list of census blocks available for download from the National Broadband Map in formulating its plans to comply with the requirements of the CAF Phase I incremental and frozen support mechanisms. To the extent that this data set now appears to have been incomplete, ACS must now reevaluate these plans.

* * * * *

¹¹ *CAF I FNPRM* at ¶ 5; *USF/ICC Transformation Order*, 26 FCC Rcd at 17716, ¶ 139.

For the foregoing reasons, ACS hereby requests that the Commission clarify the version of the National Broadband Map that will be used to assess ongoing compliance with the Commission's rules governing use of CAF Phase I incremental and frozen support, as discussed herein, and include the 1991 census blocks shown in Attachment 1 in the list of unserved census blocks available for download from the National Broadband Map web site.

Respectfully submitted,



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Your submission has been accepted

ECFS Filing Receipt - Confirmation number: 201319196128	
Proceeding	
Name	Subject
10-90	In the Matter of Connect America Fund A National Broadband Plan for Our Future High-Cost Universal Service Support. .
Contact Info	
Name of Filer: Alaska Communications Systems	
Email Address: richard.cameron@acsalaska.com	
Attorney/Author Name: Richard R. Cameron	
Address	
Address For: Filer	
Address Line 1: 600 Telephone Avenue	
City: Anchorage	
State: ALASKA	
Zip: 99503	
Details	
Small Business Impact: NO	
Type of Filing: COMMENT	
Document(s)	
File Name	Custom DescriptionSize
ACS Census Block Comments CAF I (2013-01-09 FINAL).pdf	369 KB
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EXHIBIT 2

Reply Comments of Alaska Communications Systems (filed Jan. 24, 2013)

Regarding

Connect America Fund, WC Docket No. 10-90, Public Notice: Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support, DA 12-1961 (rel. Dec. 5, 2012)

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Public Notice: Wireline Competition Bureau)	DA 12-1961
Seeks Comment on Areas Shown as)	DA 12-2001
Unserved on the National Broadband Map)	
for Connect America Phase I Incremental)	
Support)	

Reply Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”),¹ hereby submits these reply comments in response to the Public Notice (“Public Notice”)² issued by the Wireline Competition Bureau (“Bureau”) in the above-captioned proceeding. In these reply comments, ACS urges the Commission to clarify the intent and purpose of its efforts to validate the list of potentially unserved census blocks within the service areas of price cap carriers that are shown as unserved by broadband on the National Broadband Map.

In particular, ACS believes that the Commission should clarify that any changes it may adopt in this proceeding to reduce the list of unserved census blocks will apply only prospectively. Price cap carriers, including ACS have already spent considerable time and effort

¹ In these comments, “Alaska Communications Systems” signifies the operating subsidiaries of Alaska Communications Systems Group, Inc., which include the incumbent local exchange carriers (“ILECs”), ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc., as well as the additional operating subsidiaries, ACS Wireless, Inc., ACS Long Distance, Inc., ACS Internet, Inc., ACS Cable, Inc., Alaska Fiber Star, and WCI Cable. Together, these ACS companies provide retail and wholesale wireline and wireless telecommunications, information, broadband, and other services to residential and business customers in the State of Alaska and beyond, using ACS’s intrastate and interstate facilities.

² Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Seeks Comment on Areas Shown as Unserved on the National Broadband Map for Connect America Phase I Incremental Support*, DA 12-1961 (Wir. Comp. Bur., rel. Dec. 5, 2012) (“Public Notice”); *see also* Public Notice, WC Docket No. 10-90, *Wireline Competition Bureau Updates the List of Potentially Unserved Census Blocks in Price Cap Areas and Extends the Deadline for Comment on the List*, DA 12-2001 (Wir. Comp. Bur., rel. Dec. 10, 2012).

formulating investment plans to comply with the Commission's mandates regarding use of Connect America Fund Phase I frozen and incremental support. Indeed, in many cases, the purchase and deployment of broadband facilities pursuant to such investment plans is already underway, given the Commission's strict compliance timetables governing such support. The Commission should not now, at this late date, upset settled expectations and established budgets and project plans by curtailing the list of permissible locations where such investments may take place.

A. ACS Has Not Had an Adequate Opportunity to Evaluate the Claims of Additional Coverage Made by GCI and SPITwSPOTs

Although the Bureau collected electronic files containing the list of census blocks questioned by commenters in the initial comment round, it has not yet released those files to the public. Without these files, it has been difficult at best for other providers to make a meaningful assessment of the validity of these claims. Compounding this difficulty, the 15-day interval for preparing and filing reply comments, which also included a public holiday, sharply limited ACS's opportunity to conduct field testing or other verification procedures, which would be necessary to form a meaningful opinion as to the validity of the claims made by GCI and SPITwSPOTs.³

Thus, while ACS's reply comments here do not make any explicit challenge to those claims, the Bureau should not interpret this silence as ACS's agreement that they are valid. Rather, the Bureau should publish the list of affected census blocks electronically, and provide a further period for evaluation and testing of these claims.

³ GCI Comments at 1; SPITwSPOTs Comments at 4.

B. The Commission Should Not Supplant the Established Process for Updating the National Broadband Map

In response to the Bureau's Public Notice, many commenters appear to have chosen to submit updates to the December 2011 data shown on the National Broadband Map depicting purported increases in their respective broadband coverage since that map was published. GCI and SPITwSPOTs, for example, submitted comments that include maps showing census blocks that they purport currently to serve, but that the December 2011 map does not show that they serve. Neither commenter, however, alleges any error in the data shown on the December 2011 map. SPITwSPOTs, for example, explicitly acknowledges that its claims to serve area shown as unserved on the National Broadband Map are based on its use of "April 2012 State Broadband Initiative (SBI) data" recently published by Connect Alaska.⁴ Similarly, regarding the area GCI now claims to serve with broadband, it states that it "has not heretofore provided this data to the SBI contractor, Connect Alaska," but is doing so concurrently.⁵

ACS concurs that it is important to ensure that the coverage data shown on the National Broadband Map is accurate. Nevertheless, the Bureau should not allow its census block challenge process to supplant the established procedures of the National Telecommunications and Information Administration ("NTIA") for collecting and publishing updates to the National Broadband Map. NTIA already requires the recipients of grant awards under the State Broadband Data and Development ("SBDD") Grant Program, including Connect Alaska, to continually compile coverage data, and submit cumulative updates every six months through

⁴ SPITwSPOTs Comments at 5.

⁵ GCI Comments at 2.

2015.⁶ Through this process, NTIA already has assumed responsibility for collecting updates to these data and publishing semiannual revisions to the National Broadband Map.

ACS believes that, to the extent the Bureau staff “finds that the evidence demonstrates that it is more probable than not that the National Broadband Map inaccurately portrays coverage of a particular area,”⁷ the proper course would be to refer those findings to NTIA for its consideration of whether or not to incorporate them into a future update to the National Broadband Map, likely with the input of the state’s SBDD grant award recipient. By doing so, the Commission will fulfill the error correction goals of its challenge process, while continuing to maintain a single governing source for broadband coverage data. Were the Bureau merely to make adjustments to its own list of census blocks, in contrast, it would by definition create a set of coverage data in conflict with the National Broadband Map, leaving it to the user to speculate as to which is more accurate. Further, to the extent that the state’s SBDD grant award recipient may have previously considered or rejected a provider’s claims of coverage, the Bureau’s process may provide a “second bite at the apple,” and risk introducing persistent conflicts between the data shown on the National Broadband Map and that maintained by the Bureau.

⁶ National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, *Notice of Funds Availability and Solicitation of Applications*, 74 Fed. Reg. 32545, 32552 n.26 (2009) (“Broadband mapping data should be updated at least on March 1 of each year (by submitting data as of December 31 of the previous year) and at least September 1 of each year (by submitting data as of June 30 of that year) For the purposes of this program, an update will be deemed to be a verification of existing data and a collection of any additional data reflecting the expansion or contraction of broadband availability since the previous data collection or update.”)

⁷ *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, FCC 12-138, 27 FCC Rcd 14566 (2012) (“2013 CAF Phase I Incremental Support Further Notice”), at ¶ 16 (2012).

C. The Commission Should Not Disturb Price Cap Carriers' Settled CAF Phase I Investment Plans

Since the Commission's adoption of the *USF/ICC Transformation Order*, price cap carriers and others have used the data in the National Broadband Map in formulating capital investment plans for future broadband coverage. They have done so because the Commission's CAF Phase I incremental and frozen support rules establish the National Broadband Map as the authoritative source of broadband coverage data establishing the areas eligible for such support. As the Commission recognized in its recent Further Notice of Proposed Rulemaking in this proceeding, "[t]he Commission relies on the National Broadband Map in many contexts, including as a tool to target funding appropriately in Phase I of the Connect America Fund."⁸

Thus, any changes the Bureau may adopt in this proceeding to reduce the list of unserved census blocks should apply only prospectively. The Commission has already distributed 2012 CAF Phase I incremental support based on investment plans that price cap carriers formulated – at the explicit behest of the Commission – based on the coverage data shown in the National Broadband Map. Further, the Commission's CAF Phase I frozen support rules require price cap carriers to spend 1/3 of their CAF Phase I frozen support in 2013 to build and operate broadband networks in areas not served by an unsubsidized competitor, again as shown on the National Broadband Map.⁹ With 2013 already well underway, price cap carriers have already developed capital investment plans based on the existing coverage data shown on the National Broadband Map.

⁸ *2013 CAF Phase I Incremental Support Further Notice*, at ¶ 13.

⁹ *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), at ¶ 103.

The Bureau should thus clarify that any changes it makes to reduce the list of unserved census blocks will not affect the compliance requirements governing use of CAF Phase I incremental support awarded in 2012, or CAF Phase I frozen support for 2013. Such a clarification would be consistent with the Commission's directive in the *2013 CAF Phase I Incremental Support Further Notice* to utilize such a challenge process to "allow interested parties to provide updates to the National Broadband Map for purposes of any **additional round** of Phase I funding."¹⁰ Similarly, the Bureau has previously established that broadband coverage shown on the National Broadband Map "at the time of acceptance" of CAF Phase I incremental support will govern compliance throughout the buildout period.¹¹

In contrast, if the Bureau makes changes to *augment* the list of unserved census blocks, such as those identified by ACS in its initial comments in this proceeding, the Bureau should permit carriers to meet their 2012 CAF Phase I incremental support and 2013 CAF Phase I frozen support broadband obligations by deploying broadband in those areas. As far as ACS can tell, the 1991 census blocks it identified were inadvertently omitted from the Bureau's list, and were in fact unserved in December 2011. Thus, it would be entirely consistent with the Commission's rules to permit ACS to meet its deployment obligations with service deployed within those census blocks.

Further, as ACS argued in its initial comments in this proceeding, the Commission should establish the authoritative source of coverage data that will govern price cap carriers' elections to accept 2013 CAF Phase I incremental support at least 90 days prior to the acceptance deadline,

¹⁰ *2013 CAF Phase I Incremental Support Further Notice*, at ¶ 14 (emphasis supplied).

¹¹ *Connect America Fund*, WC Docket No. 10-90, Order, DA 12-1155, 27 FCC Rcd 8141 (2012), at ¶ 7.

as it did in 2012. ACS believes that this 90 day window is exceedingly short to enable carriers to make such an election; the Commission should not compound these challenges by altering the coverage data after its offers of CAF Phase I incremental support are announced.

* * * * *

For the foregoing reasons, ACS hereby requests that the Commission (1) publish an electronic list of census blocks and permit a further opportunity for commenters to make a meaningful analysis of competitors' claims to serve the areas so identified; (2) dovetail its census block challenge process with NTIA's ongoing procedures for updating the National Broadband Map, rather than establishing a parallel update process that will inevitably create conflicting data; and (3) clarify that any changes it may adopt in this proceeding to reduce the list of unserved census blocks will apply only prospectively, while carriers may use broadband deployment in census blocks added to the list to meet existing 2012 CAF Phase I incremental support and 2013 CAF Phase I frozen support broadband obligations.

Respectfully submitted,



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Name	Subject
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Small Business Impact: NO
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Document(s)

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