

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	DA 13-69

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 Bureau in the above-captioned proceeding seeking comments on the design of the Remote Areas Fund (“RAF”). In these comments, ACS urges the Commission (1) to restrict RAF support to those census blocks falling above the “extremely high” cost ceiling that will be established by the Connect America Cost Model (“CACM”); and (2) to design the RAF so that eligible telecommunications carrier (“ETC”) obligations in RAF-supported areas transfer to the provider receiving RAF support. In this regard, the Commission should relieve the ILEC of ETC obligations in RAF-funded areas, and should require providers of RAF-supported services to be certified as ETCs and to demonstrate that they provide voice service that meets the Commission’s definition of universal service.

I. Areas Eligible for RAF Support (¶¶ 5-7, 13-15)

As a threshold matter, ACS believes that the Commission should complete implementation of the Connect America Fund (“CAF”) Phase II mechanism before developing the design of the RAF. The Commission will make better-informed RAF policy choices once the CAF Phase II mechanism is in place, including the auction of any areas where the price cap carrier did not make the required service commitment.

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, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

² *Connect America Fund*, WC Docket No. 10-90, Public Notice, “Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund,” DA 13-69, 28 FCC Rcd 265 (Wir. Comp. Bur. 2013).

A. The Commission Should Not Use the National Broadband Map to Provide Interim RAF Support to Census Blocks that Will Be Supported by the CAF Phase II Support Mechanism (¶¶ 5-7)

In response to the Bureau's request for comment on whether the Commission should "use the National Broadband Map to identify unserved census blocks and provide [RAF] support to those census areas until they become served with broadband that meets the Commission's performance requirements (*i.e.*, speed, capacity, latency) for non-[RAF] eligible areas."³ ACS believes that making RAF support available in areas included in the CAF Phase II support mechanism as an interim way of supporting broadband service in these locations would undermine the viability of both the RAF and CAF Phase II mechanisms.

As discussed below, the costs of delivering voice and broadband service to the primary RAF areas are extremely high, such that the Commission should focus the entire RAF budget on those areas, without diverting a portion of this support to CAF Phase II areas. The Commission established the RAF to support delivery of broadband in areas "where the cost of deploying wireline or cellular terrestrial broadband technologies is extremely high," and, of course, where the National Broadband Map shows that broadband is not already available.⁴ Using this support, even on an interim basis, in areas where costs do not reach this "extremely high" threshold would undermine the Commission's public interest goals for this fund. In addition, by making RAF support available in CAF Phase II areas, even on an interim basis, the Commission would compromise the success of that mechanism, by making it more difficult for price cap carriers to make the broadband deployment commitment required to accept CAF Phase II support.

³ Public Notice at ¶ 5.

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 (2011) ("*Transformation Order*"), at ¶ 533.

In adopting a budget for universal service set at \$4.5 billion, equal to the Commission's estimate of the size of the high-cost program in 2011, even as it attached costly new broadband deployment obligations to this support, the Commission relied on its concurrent steps "to address long-standing inefficiencies and wasteful spending."⁵ Among these steps, surely, was the decision to refrain from supporting competing networks within a single geographic area, which was one of the Commission's guiding tenets that shaped the *Transformation Order's* reforms.⁶ Use of RAF support to fund alternative technologies in areas where price cap carriers are poised to deploy broadband using CAF Phase II support, would run contrary to this tenet, while increasing waste and inefficiency.

The Commission should not shrink from that decision now, for the very success of its CAF framework hinges on it. The census blocks that will receive Connect America Fund ("CAF") Phase II support are ones that are so difficult and costly to serve that no provider with access to historical levels of high cost support has yet deployed broadband to serve them. The economic case for affordable broadband in these census blocks, even with CAF Phase II support, promises to be exceedingly difficult to make. The cost of the necessary facilities is high; the number of customers those facilities will reach is generally small; and the areas in question generally are economically challenged. The already-difficult economic case for broadband would become substantially *more* difficult if a price cap LEC were forced to cede a portion of the potential market to a federally subsidized competitor.

This is particularly the case given that, in many cases, service supported by the RAF is likely to come with lengthy service contracts that impose prohibitive termination penalties that

⁵ *Transformation Order* at ¶ 125.

⁶ *E.g., Transformation Order* at ¶ 319 ("[W]e conclude that this prior policy of supporting multiple networks may not be the most effective way of achieving our universal service goals.").

make it functionally impossible for customers to elect to switch to the price cap LEC's service supported CAF Phase II, even they would prefer to do so. The Commission seeks comment, for example, on whether to permit extended service contracts with a 24-month month term for RAF-supported voice and broadband service.⁷ Such contracts could prevent a price cap carrier from generating revenues from newly deployed broadband facilities for up to two years after its broadband service became available, severely impacting the viability of the economic case for deployment. Indeed, for this very reason, the RAF-funded provider would face an incentive to focus its sales and marketing efforts on CAF Phase II-funded areas, in order to build market share there in advance of the price cap carrier's launch of CAF Phase II-supported service, knowing that it is less likely to face a future competitor in primary RAF areas.

There is no adequate set of limits that the Commission could place on the availability or use of RAF support to address the damage it would do to the viability of the CAF Phase II mechanism. A certain number of customers that accept RAF-supported voice and broadband service will continue to take this service – because of the inconvenience of switching providers, or perceived expense, or through simple inertia – even after the RAF support is terminated. There is thus no way fully to mitigate the impact the RAF would have on carrier ability to accept CAF Phase II support and make the attendant commitment requested by the Commission.

B. The Commission's Proposal to Make RAF Support Available during CAF Phase II Buildout Would Be Difficult to Administer (¶¶ 13-15)

The Commission would face substantial challenges in designing a mechanism to administer the availability of RAF support in census blocks supported by the CAF Phase II mechanism. The Commission would need to choose between, on the one hand, terminating RAF

⁷ Public Notice at ¶ 31.

support when the price cap carrier first makes available service meeting the CAF Phase II standards anywhere within the census block, thereby risking terminating RAF support to a certain number of customers that do not yet have access to service supported by CAF Phase II, or on the other hand, continuing to make RAF support available until the price cap carrier can deliver CAF Phase II support to the entire census block, thereby violating its own policy determination not to fund competing networks. Regardless of which choice it makes, it would risk terminating RAF support to consumers that are still in the middle of the term of a one- or two-year contract with their provider of RAF-supported voice and broadband service.

Even to gather the data necessary to manage the transition of census blocks from RAF to CAF Phase II support, the Commission would need to require price cap carriers to make frequent reports on their service deployment progress. Providers of RAF-supported voice and broadband service would undoubtedly insist that these reports must be subject to a challenge process, which in turn would need to be designed and implemented. In order to slow the termination of their RAF support, these providers would face significant economic incentives to launch these challenges, regardless of their level of merit, creating an administrative burden and potential bottleneck for the Commission and state-level mapping authorities.

II. Eligible Telecommunications Carrier Obligations Should Follow Federal Support

A. Direct-to-Consumer Satellite Broadband Cannot Serve the Needs of All Alaskans Living in RAF Areas (¶¶ 7, 16-29)

ACS believes that direct-to-consumer satellite broadband cannot serve the needs of all Alaskans living in RAF areas, because these services are not ubiquitously available in Alaska.. The dishes rely on line-of-sight communication, but must point low on the horizon, making them susceptible to being blocked by trees, buildings, and other obstructions. The dishes are also

difficult to align and keep aligned, because signal strength is relatively low. Therefore, direct-to-consumer satellite service is not yet a viable substitute for terrestrial broadband for all Alaskans.

The Commission recently observed that, “in 2011, the consumer broadband satellite industry began launching a new generation of satellites which have greatly improved overall performance,” specifically citing the “ViaSat-1 satellite, which at the time of launch surpassed the total capacity of all current Ku-, Ka-, and C-band satellites over North America.”⁸ Nevertheless, ViaSat itself acknowledges that ViaSat-1 serves only “the most populated areas of Alaska and Hawaii.”⁹ Further, in *Measuring Broadband America*, the Commission acknowledges that, “ViaSat had a measured latency of 638ms for this report, approximately 20 times that for the terrestrial average,”¹⁰ and far above the proposed 300ms limit the Commission proposes in the Public Notice.¹¹ Indeed, the Bureau’s Public Notice cites data showing that “latency up to 300 milliseconds provides acceptable voice quality for most users with an increasing number of users becoming dissatisfied if latency exceeds 300 milliseconds.”¹²

Even the presence of ViaSat-1, therefore, does not appear completely to fulfill the Commission’s hopes for the RAF. First, the areas surrounding the three population centers in Alaska – Anchorage, Fairbanks, and Juneau – are already projected to receive support through CAF Phase II, if they receive support at all. Second, there are substantial portions of the state where direct-to-consumer satellite broadband coverage is less certain. From Fairbanks, the

⁸ Federal Communications Commission, “2013 Measuring Broadband America, February Report” (OET/CGB, rel. Feb. 15, 2013) (“*Measuring Broadband America*”), at 7.

⁹ “ViaSat-1 Transforming Satellite Broadband – ViaSat Network Communications Satellite Systems – ViaSat,” available at: <http://www.viasat.com/broadband-satellite-networks/high-capacity-satellite-system> (visited Feb. 18, 2013)

¹⁰ *Measuring Broadband America* at 11.

¹¹ Public Notice at ¶ 49.

¹² *Id.*

northernmost of Alaska's population centers, the state continues more than 500 miles further north to the North Slope, encompassing small communities such as Barrow, Deadhorse, and Prudhoe bay, as well as hundreds of largely Native Alaskan villages, such as Hughes, Huslia, Atkasuk, Nuiqsut, Arctic Village, Chalkyitsik, and Anaktuvuk Pass, each ranging in size from a few dozen to a few hundred people.

B. The Commission Should Relieve ILECs of ETC Obligations in RAF-Funded Areas Where They Will No Longer Receive Federal High Cost Support (¶¶ 10, 43-46)

A consumer-based RAF subsidy cannot provide sufficient support to enable providers using terrestrial networks to deploy broadband to serve individual consumers. Terrestrial providers face significant network effects in computing the costs of deploying broadband. The more subscribers that the provider can serve with a single piece of equipment, the lower the cost per subscriber and the higher the likelihood that the provider can offer broadband at an affordable rate. For a price cap carrier, for example, the decision to deploy facilities necessary to deliver broadband depends on its ability to attract a critical mass of subscribers at an affordable rate, given the cost of the facilities and the level of CAF Phase II support available. As a result, for a terrestrial provider to participate in the RAF by serving an Alaskan village, for example, the Commission would, at a minimum, need to make the terrestrial provider the exclusive RAF-eligible provider for that village.

For example, in likely RAF areas of Alaska, depending on the precise settings of the CACM, ACS serves roughly 3,000-10,000 customers across dozens of widely dispersed villages. A typical village may consist of roughly 250 people, where ACS today may serve about 100 lines. ACS's costs to serve that village with broadband would include those to install DSLAMs and other electronics and obtain middle mile transport capacity to Anchorage using microwave

or carrier-grade satellite service, where data traffic can join undersea cables connecting Alaska to the nearest Internet access point in the lower 48 states. ACS has estimated, whether microwave or satellite middle mile transport is used, that deploying such service to a typical village and operating it for five years would cost many millions of dollars. Similarly, GCI recently filed a study showing the cost of deploying wireless service to currently unserved or underserved areas of Alaska would reach some \$596 million, with nearly half of that total – \$267 million – needed for backhaul services.¹³

As a result, if the Commission adopts a consumer-based model for distributing RAF support, it should relieve price cap carriers of ETC obligations and preempt state carrier of last resort (“COLR”) obligations in RAF areas at the time it terminates high cost support for voice service in those areas. Indeed, the Commission proposes a similar adjustment to the ETC obligations of rate-of-return carriers, yet the very same considerations also apply to price cap carriers.¹⁴ Without federal high-cost support, it will be impossible for a price cap carrier to meet its ETC and COLR responsibilities while continuing to charge affordable rates to consumers.

Further, Section 254 of the Communications Act of 1934, as amended (the “Act”) does not permit the Commission to continue to enforce ETC obligations in the absence of explicit support to enable an ETC to meet them that complies with the principles of Section 254(b).¹⁵ Currently, price cap carriers receive CAF Phase I frozen support, which was based on legacy high cost support mechanisms that supported delivery of voice service. As indicated above, the

¹³ *Connect America Fund*, WC Docket No.10-90, Letter from John T. Nakahata, Counsel to General Communication, Inc., to Marlene H. Dortch, Secretary, FCC (filed Feb. 15, 2013), Attachment, “Alaska Mobile Broadband Cost Model,” at 5, 26 (Table II-1).

¹⁴ Public Notice at ¶ 10.

¹⁵ 47 U.S.C. § 254(b).

cost of delivering voice service in these areas is indisputably high. In such cases, Section 254(b) requires the Commission to establish “specific, predictable and sufficient” support mechanisms to ensure that subscribers have “access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas . . . at rates that are reasonably comparable to rates charged for similar services in urban areas.”¹⁶ Without providing access to such mechanisms, the Commission may not enforce these standards against an ETC and, indeed, it is unlikely that the ETC would be able to meet them. For the same reasons, in the event existing support mechanisms are eliminated and not replaced, the Commission should explicitly relieve carriers of any state COLR obligations.

Nor may the Commission condition receipt of CAF Phase II support on a price cap carrier’s continuation of voice service in RAF areas. To do so would revive a significant implicit support flow, in violation of the mandate of Section 254(e) that support “should be explicit and sufficient to achieve the purposes of this section.”¹⁷ CAF Phase II support is calculated based on the costs to deploy service to specific census blocks that do not exceed an “extremely high cost” threshold. The price cap carrier, therefore, should retain voice service obligations only for those census blocks.

To the extent that the Commission declines to terminate ETC and COLR obligations of price cap carriers in areas supported exclusively by the RAF, ACS recommends, at least for Alaska, that the Commission dedicate a portion of the RAF that would be available to terrestrial providers for buildout of network facilities and middle mile transport to serve a specific geographic area within range of a particular DSLAM. In particular, many RAF locations will

¹⁶47 U.S.C. § 254(b)(3,5).

¹⁷47 U.S.C. § 254(e).

require new, increased capacity middle mile transport, either using microwave or carrier-grade satellite facilities, to transport broadband data between a new local DSLAM and Anchorage, where the data can join undersea cables connecting Alaska to Internet access points in the lower 48 states. Such transport cannot reasonably be obtained to serve an individual subscriber who may request service, but depends on a critical mass of subscribers within the geographic area to become economically feasible.

C. In RAF Areas, the Commission Should Shift ETC Obligations from the ILEC to the Provider of RAF-Supported Service (¶¶ 43-46)

Rather than continuing to impose ETC obligations on price cap carriers that face little chance of continuing to meet them without federal universal service support, the Commission instead should require providers of RAF-supported services to be certified as ETCs, and to deliver voice services to their customers meeting the Commission's definition of universal service.¹⁸

Indeed, to receive RAF support, a provider must become certified as an ETC. The Commission's authority to establish the RAF rests squarely on the authority granted by Section 254(b)(5) of the Act, to create "specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."¹⁹ Among other requirements governing the distribution and use of this support, however, Section 254(e) requires that, "only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support."²⁰ Thus, the Commission must comply with

¹⁸47 C.F.R. § 54.101.

¹⁹47 U.S.C. § 254(b)(5).

²⁰47 U.S.C. § 254(e).

this admonition by requiring all recipients of RAF support to be certified as ETCs, as prescribed by Section 214(e).²¹

The Commission already reached a similar conclusion when it established the low-income broadband Pilot Program. In that Order, the Commission found conclusively that participants would need to be certified as ETCs, stating:

Section 254(e) of the Communications Act provides that only ETCs designated pursuant to section 214(e) are eligible for universal service support. Given that the Fund will be used for the Pilot Program, only ETCs will be eligible to receive Pilot Program funds.²²

Like the low-income support mechanism that the Commission used to fund the low-income broadband pilot program, the RAF will be funded pursuant to the Commission's Section 254 authority over universal service. Therefore, just as in that case, the Commission must comply with the eligibility restrictions imposed by Section 254(e).

Moreover, beyond the statutory mandate, it is vital from a public interest perspective to require RAF recipients to be certified as ETCs. To receive this certification, a carrier must demonstrate that it (A) offers the full suite of services within the Commission's definition of universal service, either using its own facilities or a combination of its own facilities and resale of another carrier's services; and (B) advertises the availability of such services and the charges therefor using media of general distribution.²³ Implementing these statutory mandates, the Commission's rules unequivocally state that, "[a]n eligible telecommunications carrier must offer voice telephony service [meeting the definition of universal service] in order to receive

²¹ 47 U.S.C. § 214(e).

²² *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, 27 FCC Rcd 6656 (2012), at ¶ 334.

²³ 47 U.S.C. § 214(e)(1); *see* 47 C.F.R. § 54.101(a) (establishing the definition of universal service).

federal universal service support.”²⁴ Yet, currently, few potential providers of RAF-supported services – such as satellite-based providers and wireless Internet service providers – have shown that they can meet this standard.

Such a showing is particularly vital for recipients of RAF support, in light of the Commission’s intent to discontinue its existing high cost support for voice service in such areas. Without high-cost support, price cap carriers are unlikely to be able to maintain the same high level of quality voice services that they offer today, which include all of the functionalities mandated by the Commission’s definition of universal service. The cost of delivering voice service in these areas is indisputably high, as confirmed by the Commission’s legacy high cost support mechanisms, and actual carrier costs . ACS can confirm, as illustrated above, that its costs in these remote areas of Alaska far exceed the revenue it could generate from rates that are affordable and reasonably comparable to those prevailing in urban areas. It is not uncommon, in ACS’s high cost service areas, for universal service support to represent more than half of its overall revenue. Yet, the CAF Phase II support mechanism, as currently contemplated by the Commission, does not propose any support for voice (or broadband) services in RAF areas served by price cap carriers. Without some form of legacy support, ACS is unlikely to continue to provide the level of high quality service that it does today.

²⁴47 C.F.R. § 54.101(b).

III. Conclusion

For the foregoing reasons, ACS hereby requests that the Commission design the RAF mechanism as discussed herein.

Respectfully submitted,

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