

February 28, 2013

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554

RE: **Ex parte filing** in WC Docket Nos. 10-90 and 05-337

Dear Ms. Dortch:

On February 27, 2013, Dave Dengel of Copper Valley Telecom and the undersigned met with Craig Stoop, Rodger Wook, Susan Yelen and Joseph Cavender of the Wireline Competition Bureau.

We discussed the Regression Analysis model and issue of all of Alaska being federally designated by the Bureau of Indian Affairs as 100% Tribal, the model's underlying data inputs on Climate, and the Alaska negative Capex Regression co-efficient.

The balance of our meeting was spent providing information on a privately funded, undersea fiber project (<http://arcticfibre.com>) that is being constructed in 2013 - 2014 and which plans to bring fiber optic landings to the North Slope and Northwest Arctic Boroughs and the Seward Peninsula of Alaska. We pointed out the preliminary pricing and capacity for connectivity to this fiber is vastly superior to the existing satellite middle mile, as well as the latest terrestrial middle mile project, TERRA, built with a combination of Federal grant and loan funding. This fiber holds the promise to finally bringing true broadband to much of Alaska, creating middle mile competition which will lower the amount of support needed, not only for the High Cost Fund, but also Schools and Libraries and Rural Healthcare and puts support for rural Alaska on a sustainable, lower cost path.

We finished our meeting expressing our concern that the lack of predictability that the Quantile Regression Analysis model has brought to rural rate of return carriers is impeding our ability to secure capital funding to construct next generation networks. In

our instance, there could be a real world consequence to rural Alaskans *and* a missed opportunity to reduce dependence on USF if we are not able to fully take advantage of the once in a generation opportunity represented by the Arctic Fibre project.

As required by the Commission's rules, this ex parte record is now filed in the above referenced dockets. If there are any questions, please call me at 907-563-3989.

Respectfully submitted,

/s/

Stephen Merriam, CEO

Arctic Slope Telephone Association Cooperative, Inc.

Copy to:

David Dengel

Craig Stoop

Rodger Wook

Susan Yelen

Joseph Cavender

Jeff Smith, GVNW

Attachments:

AFI and the Closing of the Digital Divide

Ex parte filing in WC Docket Nos. 10-90 and 05-337, GVNW, July 13, 2012

United States Department of the Interior, BIA Memorandum Designating Alaska as 100% Tribal Land

Memorandum by Heather Graham, ESQ. to Members of the Rural Coalition, 7/25/12

Excel Spreadsheet Showing the Impact of Alaska Designation of 100 % Tribal

Quintillion Networks Deck, January 2013

AFI and the Closing of the Digital Divide

Arctic Fibre, (AFI) a Canadian based corporation is laying a fiber from Tokyo to London for the financial markets. It will traverse the NW and N coast of Alaska with plans for a series of landings across Canada via the Northwest Passage.

Quintillion Networks, LLC., (QN) has the exclusive contract to develop landings to the Alaska coastline. Currently, QN has committed to making landings in 5 communities, Prudhoe Bay/Deadhorse, Barrow, Wainwright, Kotzebue and Nome. Additional sites are being evaluated.

The **ILEC's** serving these communities are partnering with QN to be their meet point, provide on-site O&M and distribute the bandwidth to other carriers, community anchor institutions, small businesses and residents alike.

Unlike **TERRA SW**, which was funded by a stimulus grant and low interest funding from RUS, QN is capitalized without any Federal funding.

Due to the exponentially greater capacity of the **AFI** fiber, **QN's** preliminary pricing estimates are a small fraction of satellite middle mile costs and those charged to **ILEC's** trying to access capacity on **TERRA SW**, which is priced at satellite or higher rates.¹

¹ See TERRA GCI rate sheet at <http://assets.gci.com/2010/11/GCI-Terra-Posting-Oct-22-clean.pdf>

Benefits of AFI Connectivity

- Fiber connectivity will lower the ILEC's operating costs dramatically which lowers its dependence on USF to make a business case. This relieves pressure on the fund and achieves the FCC's goals of sustainability and broadband deployment to unserved areas, a win-win.
- Fiber connectivity will decrease the cost to the Federal and State government whether purchasing bandwidth for research, defense or other functions.
- Fiber connectivity lowers the financial support needed for the High Cost, Schools and Libraries and Rural Health Care Funds. It creates opportunities for distance learning, civil participation with government, economic development, e-commerce and social media, all of which lower costs, improve quality of life and raise revenue.
- This could be remarkable success story for the FCC, RUS, Congress and the Administration. The first step is to take immediate corrective action on the identified errors in the QRA model that misstate % Tribal Lands, relationship of climate to costs and the negative Alaska Capex co-efficient so that companies have the ability to secure long term RUS funding.

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July 13, 2012
Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-A325
Washington, D.C. 20554
RE: **Ex parte filing** in WC Docket Nos. 10-90 and 05-337

Dear Ms. Dortch:

On July 11, Steve Merriam from Arctic Slope Telephone Association Cooperative, Inc. (ASTAC) and Matthew Tycksen and the undersigned from GVNW Consulting, Inc. (GVNW) conducted a telephonic ex parte meeting with the following individuals from the Wireline Competition Bureau: Carol Matthey, Patrick Halley, Amy Bender, Steven Rosenberg, Craig Stroup, James Eisner, John Emmitt, Gary Seigel, and Ying Ke.

The ex parte meeting started with our thanking Carol for her invitation on February 27 to followup on QRA data error issues. We further expressed our appreciation of Commissioner Clyburn's invitation at the June 7 Senate Committee on Indian Affairs hearing to visit with WCB staff on these QRA data issues, which is the purpose of this telephonic ex parte.

The balance of this ex parte meeting consisted of a discussion of the items detailed below related to quantile regression errors for ASTAC. We also discussed that the Arctic Slope service area is larger than the state of Minnesota, covering over 88,695 square miles.

Roads

Road data supplied by Arctic Slope has been coupled with road data from Tiger Shapefiles for North Slope, Alaska. The analysis shows that Tiger road data does not exist for specific areas where Arctic Slope operates. Further, TomTom North America road data does not exist for specific areas in the North Slope. The FCC utilizes TomTom Telecommunications Suite 2011.09 road data to measure road lengths and lists Arctic Slope's total road length at 2429 miles. Preliminary analysis suggests that the true number of road miles in Arctic Slope's service area is 168.1, which is significantly less than the figure listed by the FCC, including seasonal ice roads. We have attached our calculations, as well as information derived from Google Earth that shows a noticeable absence of roads in the desolate and isolated ASTAC service territory.²

ASTAC Exchange Name Road Miles

Kaktovik 8.1
Anaktuvuk Pass 6.5
Nuiqsut 10.4
Atqasuk 6.8
Wainwright 10.2
Pt. Lay 7.2
Pt. Hope 12.6
Deadhorse 106.3
Total 168.1

We agreed to follow-up in the waiver request with our calculation of road crossings.

□ Climate

The climatic conditions in the North Slope of Alaska are some of the harshest in all of the 50 states. With a 75 day construction window, ASTAC must deploy crews on 12 hours shifts, seven days a week in order to complete projects. We discussed the needed corrections in a separate attachment.

□ Difficulty vs. PctBedrock

The “Difficulty” variable provides a measure of the effort needed to operate and lay plant into the soil in a given service area. The data is derived from the STATSGO2 dataset, and values for various soil types range from 1, being the easiest to work, to 4, the most difficult. The “PctBedrock36” variable measures the percentage of bedrock found within 36 inches of the surface in a given service area, the depth at which digging occurs. Intuitively, the higher the percentage of bedrock found within 36 inches of the surface, the more difficult working the soil should be, thus there must be some positive correlation between Difficulty and PctBedrock36. However, when observing the values listed for Alaskan carriers, PctBedrock36 ranges from 0.00% to 33.56%, and yet the value for Difficulty for every Alaskan carrier is 1. If the PctBedrock36 is acknowledging that bedrock exists within 36 inches of the surface, and bedrock, according to STATSGO2 takes a difficulty rating of 4, then it simply does not make sense that the Difficulty for each Alaskan carrier is 1.

□ Alaska Coefficient

In the adopted quantile regression methodology, the Commission includes a new dummy variable “Alaska”. The variable was included to acknowledge that Alaskan carriers face unique cost circumstances that cause costs to exceed those found in the lower forty eight states. The variable has a strong negative coefficient for CapEx, which fails to make intuitive sense as negative coefficients lower the value of the 90th percentile cap, effectively lowering the amount of HCLS the carrier is eligible to receive. The coefficient on the Alaska variable in the OpEx regression is positive, however in absolute terms, the size of the coefficient is much smaller than in the CapEx regression. If the intended purpose of the variable is to acknowledge higher costs experienced by operating in Alaska, then it is irrational for the variable to do just the opposite by lowering the value of the 90th percentile cap. We have not changed the FCC original input, and will defer additional discussion of this to our request for expedited waiver.

□ Tribal

In footnote 197 of the Transformation Order, tribal lands is defined as including Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act (85 Stat. 688). Further, Alaska is considered to be 100% tribal, based on a Bureau of Indian Affairs determination dated March 31, 1999. We have attached a copy of this letter, wherein the relevant paragraph is the third one. **During the July 11 discussion, staff acknowledged that this input variable would be corrected.**

□ Inclusion of Acquired GTE Properties

Prior to the Transformation Order, the exchanges acquired from GTE were treated separately for USF purposes. Review of the input data suggests that the FCC included an acquired GTE exchange in the variable “Exchanges” for Arctic Slope. A comparison of loop counts shows that acquired GTE loops are not included in the variable “Loops” and GTE plant depreciation is not factored in to the variable “PctUndepPlant.” It is damaging to the regression model and to the service provider to include GTE data in certain variables and not others.

We recommend the input variable for “LnExchanges” be shown as “8”.

After using the corrected variables discussed in this ex parte, we have attached our calculations that show ASTAC’s 90% CPL Limits per Loop, as of July 1, 2012 should be stated as follows:

Cap Ex \$951.31

Op Ex \$4575.51

As required by the Commission’s rules, this ex parte record is now filed in the above referenced dockets. If there are any questions, please call me on 503.612.4409.

Respectfully submitted,

Via ECFS 7/13/12

Jeffrey H. Smith

Vice-President and Division Manager, Western Region

Chairman of the Board of Directors

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Copy to

WCB staff in attendance

Steve Merriam, Arctic Slope Telephone Association Cooperative

Attachments in ASTAC QRA binder:

Climate variable information (file name is ASTAC ex parte climate discussion.docx)

Road mile detail for ASTAC exchanges, includes 8 maps

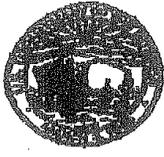
Google Earth verification of ASTAC lack of roads

BIA letter dated March 31, 1999

Jul-20-00 10:54am From: DORSEY & WHITNEY LLP
7-20-00; 7:28AM; BIA ALASKA REGION

0072577001

T-754 P.02/03 F-023
0076887325

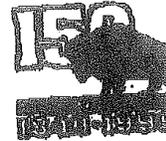


Office of Tribal Services

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20250

MAR 31 1999



RECEIVED
APR 14 1999

BUREAU OF INDIAN AFFAIRS
OFFICE OF THE AREA DIRECTOR

Memorandum

To: Juneau Area Director

From: Deputy Commissioner of Indian Affairs *Linda A. Manuel*

Subject: Alaska Service Area

This memorandum is a follow-up to the meeting held in my office on February 11, 1999, with Deborah Maddox, Director, Office of Tribal Services, Warren Holster, Deputy Area Director, Roger Drapeaux, Self-Governance Coordinator, both from the Juneau Area Office and myself. The issue of discussion involved the 'Service Area' for the Juneau Area Office in Alaska.

Your office provided documentation, which explained your position and the supporting authorities for providing Bureau of Indian Affairs (BIA) services in Alaska. It provided authorities supporting your position regarding how services were provided historically and continue to be provided to the Alaska natives and American Indians in the state of Alaska.

The scope and purpose of the Snyder Act contain extremely broad authorization of appropriations "for the benefit, care and assistance of Indians throughout the United States." Although the BIA attempts to restrict its "benefit, care and assistance" only to Indians living "on or near" a reservation, realities in Alaska require the BIA to expand the scope of its activities to include all Alaska and to treat all of Alaska as a "reservation."

We also reviewed the Code of Federal Regulations (CFR), Part 25 Indians, revised April 1998, Part 20, sub chapter D - Human Services, Subpart e, Sect. 20.1 (p), Definitions: *Indian Tribe* means...including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (ANASCA) (85 Stat. 688). In Part 256, subchapter K - Housing, Sect. 256.2 Definitions: *Indian Tribe* means an Indian or Alaska native tribe, band, nation, or pueblo village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law (Pub. L.) 103-454, 106 Stat. 4791; Service Area

Attachment A

MEMORANDUM

TO: Members of the Rural Coalition

FROM: Heather H. Grahame

DATE: July 25, 2000

RE: Geographic Scope of FCC Order 00-208 in Alaska

FCC Order 00-208 (“FCC Order”) dramatically increases funds available for Lifeline and Link Up services to qualifying low-income individuals living on American Indian and Alaska Native lands. The intent of the Order is to increase telephone subscribership levels on federally-recognized American Indian and Alaska Native tribal lands, which are generally well below the national average. The Order appropriately recognizes the significant disadvantages experienced by households without telephones, the consequences of which can be life threatening. A household without basic telephone service is also foreclosed from access to advanced services and access to the Internet. The following memo, as per your request, defines the geographic scope of the FCC’s expanded Lifeline and Link Up programs in order to identify affected communities in Alaska for use in tariff filings.

Analysis: I believe the Order applies to all Alaskans that meet the income eligibility requirements. The regulations implementing the FCC Order state that the programs apply to qualifying individuals on “tribal lands.” In turn, the FCC incorporates by reference the BIA’s definition of tribal lands set forth at 25 C.F.R. § 20.1(v) (reservation) and at 25 C.F.R. § 20.1(r) (near reservation). The FCC adopted the BIA regulations to define the geographic scope of the FCC Order, reasoning that the BIA’s definitions provide a “widely used and readily verifiable standard.” FCC Order at ¶ 19. The FCC noted that the definitions set forth in 25 C.F.R. § 20.1 (and 25 C.F.R. § 20.20) are used by the BIA in administering financial assistance and social services programs, and that using the BIA’s definitions to “define and identify the geographic areas to which our rule amendments will apply offers significant advantages in the ease of its administration.” Id.

The BIA defines “reservation” to include “Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian allotments”¹ and has concluded that this definition incorporates all of Alaska. I have attached a memorandum from the Deputy Commissioner of Indian Affairs to the Juneau Area Director dated March 31, 1999 to this effect. (Attachment 1). As you can see on page one, the BIA treats all of Alaska as a “reservation.” (“... realities in Alaska require the BIA to ... treat all of Alaska as a “reservation.”). And, on page two, the BIA states that “services for Alaska natives in Alaska involves all eligible Alaska Native regions established pursuant to the ANCSA (85 Stat. 688) and Indian allotments.” (emphasis added). The plain language of the definition of “reservation” set forth at 25 C.F.R. § 20.1(v), together with the BIA’s March 31, 1999 memorandum stating that it treats all of Alaska as a “reservation,” provides that the BIA’s definition of “reservation” includes all of Alaska. Because the FCC has adopted the BIA’s definition of “reservation” to define the geographic scope of the FCC Order, the geographic scope of the FCC’s Order includes all of Alaska.

¹ The Alaska Native Claims Settlement Act (“ANCSA”) divided the entire State of Alaska into 12 geographic regions. 43 U.S.C. §1606(a).

² These criteria include: (1) the number of Indian people native to the reservation residing in the area; (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; (3) geographical proximity of the area to the reservation; and (4) administrative feasibility of providing an adequate level of services to the area.

I have spoken with the BIA about the scope of the FCC's Order. I have confirmed with the BIA that it considers all of Alaska to be within the definition of "reservation" under 25 C.F.R. § 20.1(v) and that it considers all of Alaska to be subject to the FCC's Order. I have also conferred with the FCC, and the FCC confirmed that it intended to adopt the BIA's definition of "reservation" particularly because the geographic scope of the term "reservation" is within the BIA's and not the FCC's area of expertise.

One other point deserves mention. The FCC Order also applies to lands that meet the definition of "near reservation." "Near reservation" lands are defined at 25 C.F.R. 20.1(r) and are generally areas or communities adjacent or contiguous to reservations designated by the BIA as locales in which eligible Native Americans may be provided with financial assistance and/or social services. Designations of "near reservation" areas are made by the BIA on the basis of several criteria.² Because we believe that all of Alaska is within the scope of the definition of "reservation," there will be no "near reservation" lands in Alaska. For this reason, we have not attempted to analyze what lands qualify as "near reservation" lands.

Conclusion: The geographic scope of the FCC's Order 00-208 (Expanded Lifeline and Link Up) includes all financially eligible individuals throughout the State of Alaska. The FCC adopted the BIA's definition of "reservation" to define the scope of the FCC's Order. The BIA considers all of Alaska to come within the definition of "reservation." As a result, the FCC's Order applies to all financially eligible individuals within the State.

Company Name	SAC	Loops	PctTribal	Current CapEx CPL	90% CapEx Limit	Current OpEX CPL	90% OpEx Limit	CPL Used to Determine Support
ADAK TEL UTILITY	610989	151	#####	3,265.26	3,265.26	9,473.55	9,473.55	12,738.80
ALASKA TEL CO	613017	3,847	#####	262.00	629.95	552.00	1,415.07	814.00
ARCTIC SLOPE TEL	613001	2,688	#####	341.00	375.40	1,076.00	992.42	1,333.42
BETTLES TEL CO INC	613002	246	#####	156.00	306.12	290.00	1,541.87	446.00
BRISTOL BAY TEL COOP	613003	1,662	#####	348.00	635.86	921.00	2,046.75	1,269.00
BUSH-TEL INC	613004	982	#####	295.00	387.36	756.00	1,429.28	1,051.00
COPPER VALLY TEL	613006	4,797	#####	1,626.51	1,626.51	1,249.81	1,249.81	2,876.32
CORDOVA TEL COOP	613007	1,800	#####	822.00	896.25	999.00	2,344.74	1,821.00
INTERIOR TEL CO INC	613011	4,915	#####	256.00	299.29	830.00	1,263.53	1,086.00
KETCHIKAN PUBLIC UT	613013	7,002	1.931183	289.00	422.54	668.00	1,697.80	957.00
MATANUSKA TEL ASSOC	613015	46,922	#####	430.00	327.42	391.00	506.30	718.42
MUKLUK TEL CO INC	613016	1,407	#####	217.00	507.42	828.00	1,273.20	1,045.00
NUSHAGAK ELEC & TEL	613018	2,216	#####	365.00	426.04	792.00	1,415.64	1,157.00
OTZ TEL COOPERATIVE	613019	3,075	#####	409.00	1,231.47	681.00	1,774.87	1,090.00
SUMMIT TEL & TEL -AK	613028	258	#####	1,324.00	1,606.70	2,581.00	2,682.93	3,905.00
UNITED UTILITIES INC	613023	6,833	#####	182.00	500.15	567.00	1,014.70	749.00
YUKON TEL CO INC	613025	500	#####	120.00	399.15	528.00	1,654.83	648.00

Company Name	100PctTribal	90% CapEx Limit	90% Opex Limit	CPL Used to Determine Support	Delta 90% Limit	Delta Support CPL
ADAK TEL UTILITY	#####	3,424.86	11,498.03	12,738.80	329,797.29	-
ALASKA TEL CO	#####	645.51	1,562.34	814.00	626,372.82	-
ARCTIC SLOPE TEL	#####	389.38	1,151.17	1,417.00	464,298.24	#####
BETTLES TEL CO INC	#####	318.17	1,803.47	446.00	67,316.71	-
BRISTOL BAY TEL COOP	#####	652.89	2,278.38	1,269.00	413,261.76	-
BUSH-TEL INC	#####	397.01	1,579.46	1,051.00	156,952.68	-
COPPER VALLY TEL	#####	1,685.51	1,444.22	2,876.32	1,215,579.58	-
CORDOVA TEL COOP	#####	903.80	2,425.94	1,821.00	159,753.22	-
INTERIOR TEL CO INC	#####	310.15	1,460.18	1,086.00	1,019,909.64	-
KETCHIKAN PUBLIC UT	#####	442.78	2,052.93	957.00	2,628,344.55	-
MATANUSKA TEL ASSOC	#####	331.95	535.31	722.95	1,573,609.33	#####
MUKLUK TEL CO INC	#####	526.41	1,477.97	1,045.00	314,849.66	-
NUSHAGAK ELEC & TEL	#####	426.13	1,416.97	1,157.00	3,153.52	-
OTZ TEL COOPERATIVE	#####	1,266.95	1,991.75	1,090.00	776,026.70	-
SUMMIT TEL & TEL -AK	#####	1,685.23	3,256.27	3,905.00	168,183.26	-
UNITED UTILITIES INC	#####	514.50	1,138.09	749.00	941,143.40	-
YUKON TEL CO INC	#####	417.44	1,984.77	648.00	174,112.06	-
					#####	#####

Quintillion Networks Deck can be found at:

<http://www.alaska.edu/oit/bbtaskforce/docs/2013-01-11-Briefing-Quintillion-Networks.pdf>