Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

REPLY COMMENTS OF GENERAL COMMUNICATION, INC.
ON THE DESIGN OF THE REMOTE AREAS FUND

General Communication, Inc. ("GCI") hereby replies to comments filed in response to the Wireline Competition Bureau's Public Notice regarding the service obligations for Connect America Fund Phase 2 and determining who is an unsubsidized competitor.[1] In particular, GCI urges the Commission not to adopt the suggestions of Alaska Communications Systems ("ACS"), which will divert high-cost support from areas where it is needed, instead fund ACS' overbuilding of networks that are already delivering 4 Mbps download and 1 Mbps upload services—and even 6 Mbps upload and 1.5 Mbps upload services—today. This would not only misallocate support, but would represent a technology-conscious industrial policy in favor of xDSL over cable-based DOCSIS, which is more capable of delivering affordable, high speed broadband services. Rather than adopt ACS' suggestions, the Commission should define "unsubsidized competitor" to include a CETC that will no longer receive high-cost support at the end of the CETC transition. The Commission also should not require that an unsubsidized

[1] *See Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund*, Public Notice, DA 13-69, 28 FCC Rcd. 265 (2013) ("*Public Notice*").

competitor provide 6 Mbps downlink and 1.5 Mbps uplink services—or if it does, it should not apply a rate test at that offering.

I. BACKGROUND

GCI and ACS compete head to head throughout ACS's territory, which includes the three largest cities of Anchorage, Fairbanks and Juneau, the Kenai Peninsula south of Anchorage, Kodiak Island, Sitka, and a number of smaller communities. Particularly in those communities located in the fiber-connected Alaska Railbelt or along the fiber-served corridors in southeastern Alaska, GCI and ACS both offer robust broadband Internet access services. Unlike nearly everywhere else in the country, both GCI and ACS are ETCs, and have been receiving high-cost support.

When compared head to head, GCI's services are both capable of higher speeds and are more affordable at a given speed level than ACS'.

Chart 1

GCI (Anchorage)

Download Speed	Upload Speed	Incl. Usage	Overage Rate	Rate
10 Mbps	1 Mbps	10,000 MB	$0.005 per MB Stand-alone: $0.01 per MB	$29.99 Stand-alone: $39.99
12 Mbps	1 Mbps	60,000 MB	$0.004 per MB Stand-alone: $0.008 per MB	$49.99 Stand-alone: $59.99
15 Mbps	1 Mbps	100,000 MB	$0.003 per MB Stand-alone: $0.006 per MB	$59.99 Stand-alone: $69.99
18 Mbps	1.5 Mbps	150,000 MB	$0.002 per MB Stand-alone: $0.004 per MB	$79.99 Stand-alone: $89.99
22 Mbps	2 Mbps	200,000 MB	$0.001 per MB Stand-alone: $0.002 per MB	$109.99 Stand-alone: $119.99
50 Mbps*	5 Mbps	350,000 MB	$0.0005 per MB Stand-alone: $0.001 per MB	$199.99 Stand-alone: $209.99

* Anchorage only.

ACS+

Download Speed	Upload speed	Incl. Usage	Overage Rate	Rate
320 kbps	"Up to 1 Mbps"	Un-limited	None	$49
1 Mbps	"Up to 1 Mbps"	Un-limited	None	$69
3 Mbps	"Up to 1 Mbps"	Un-limited	None	$89
4 Mbps	"Up to 1 Mbps"	Un-limited	None	$89
7Mbps	"Up to 1 Mbps"	Un-limited	None	$99
10 Mbps	"Up to 1 Mbps"	Un-limited	None	$109

+ From ACS website: http://www.alaskacommunications.com/Personal/Home-Internet.aspx, and http://www.alaskacommunications.com/Personal/Home-Internet/Home-Internet-FAQs.aspx (last accessed April 11, 2013).

Within ACS' price cap incumbent LEC service areas, GCI offers these same plans and rates in Fairbanks, Juneau, Kenai/Soldotna, Girdwood, Homer, and Kodiak, and at slightly higher rates in Sitka.[2] That GCI offers greater capacity services is not surprising, because GCI uses a DOCSIS-based, cable Internet network, while ACS uses xDSL. As this Commission has noted, DOCSIS services are more robust than DSL.[3]

Even though GCI delivers superior service with superior value, the *USF/ICC Transformation Order* grants ACS a right-of-first refusal to elect, on a statewide basis, to be the exclusive recipient of CAF Phase 2 support within its service areas, solely because ACS is the incumbent local exchange carrier.[4] ACS gets this preferential status even if other ETCs, such as GCI, would be capable of delivering the specified voice and broadband services at a lower cost and with greater future capabilities for higher speed services. Only if ACS declines to elect to receive this support will GCI be able to bid to receive this high-cost support. Although GCI currently receives high-cost support for its wireline operations in ACS' study areas, that legacy support is being phased out, and will be eliminated entirely by July 2017 (provided that Mobility Fund Phase 2 and Tribal Mobility Fund Phase 2 are implemented by July 2014). Thus, if ACS

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[2] The corresponding rates in Sitka (and some other non-ACS ILEC communities) are:

- 10 Mbps $39.99/$49.99
- 12 Mbps $59.99/$69.99
- 15 Mbps $69.99/$79.99
- 18 Mbps $109.99/$119.99
- 22 Mbps $159.99/$169.99.

[3] *See Measuring Broadband America—February 2013: Consumer wireline broadband performance in the U.S.*, FCC Office of Engineering and Technology and Consumer and Governmental Affairs Bureau, at 52, *available at* http://transition.fcc.gov/cgb/measuringbroadbandreport/2013/Measuring-Broadband-America-feb-2013.pdf.

[4] *See Connect America Fund, et al.,* Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17,663, 17,729 ¶ 171 (2011) ("*USF/ICC Transformation Order*").

elects to receive CAF Phase 2 high-cost support, then GCI's wireline operations in the same areas will inevitably become unsubsidized competitors.

This situation, in which there are two wireline ETCs, is rare. Therefore, the Commission should take care to assure that scarce high-cost support is not simply supporting overbuilding. ACS' proposals disregard the presence of other ETC networks, even when its election would render the other ETC network an unsubsidized competitor at the end of the CETC transition, will inevitably lead to support for overbuilding.

II. THE COMMISSION SHOULD CONSIDER A CETC TO BE AN UNSUBSIDIZED COMPETITOR IF, AS A RESULT OF THE ILEC ELECTING SUPPORT, HIGH-COST SUPPORT WOULD BE PHASED OUT.

In the *USF/ICC Transformation Order*, with respect to CAF Phase II, the Commission stated, "Importantly, the CAF will only provide support in those areas where a federal subsidy is necessary to ensure the build-out and operation of broadband networks."[5] Thus, the Commission directed, "The CAF will not provide support in areas where unsubsidized competitors are providing broadband that meets our definition."[6] Unless the Commission includes ETCs that will lose support as a result of the CETC support phase down or other support elimination (such as the loss of support by an ILEC that fails to make a statewide election and that also does not win the subsequent reverse auction) in the definition of an "unsubsidized competitor," the Commission will be directing high-cost support to areas in which continued high-cost support is *not* necessary to ensure the provision of service—and it will be permitting the recipient ETC to use high-cost support to overbuild a competitor. Thus, the Commission should reject ACS'

[5] *USF/ICC Transformation Order*, at 17,673-4 ¶ 24.

[6] *Id*.

suggestion that any ETC that receives legacy support should be excluded from the definition of an unsubsidized competitor.[7]

Part of what the Commission addresses in its universal service reforms is that, under the former universal service support mechanisms, support was, at times, mistargeted. Legacy mechanisms did not always direct support to where it was most needed and at times directed support to areas where it may not have been necessary. CAF Phase II attempts to address that by developing a new method of determining support based in the first instance upon a cost model, but if the ILEC does not make a statewide election, based on a reverse auction.[8] It would be the height of irony, therefore, to interpret the "unsubsidized competitor" test in a way that would allow support to continue to be mistargeted, based solely on the fact that high-cost support had previously been disbursed to that area under the legacy programs. Yet that is what ACS' proposal would do by excluding CETCs from the definition of unsubsidized competitors, even if they will see their legacy support terminate.

As shown above, GCI provides 10 Mbps downlink and 1 Mbps uplink in much of the ACS service area for $29.99 or $39.99 per month, depending on the geographic area. This is substantially below the price shown on ACS' website for 4 Mbps downlink and 1 Mbps uplink service, which is $89 per month.[9] Moreover, GCI, but not ACS, already offers uplink speeds at 1.5 Mbps and above. Thus, regardless of whether the Commission were to set a speed threshold for an unsubsidized competitor of 3 Mbps/786 Kbps, 4 Mbps/1 Mbps or 6 Mbps/1.5 Mbps, GCI

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7 *See* Comments of Alaska Communications Systems, at 9, WC Docket No. 10-90 (filed Mar. 28, 2013) ("ACS Comments").

8 *See USF/ICC Transformation Order*, at 17,727-33 ¶¶ 165-179.

9 Even if this is a price for a phone/Internet bundle, GCI's price for its lowest tier broadband service exceeding 4 Mbps / 1 Mbps, when adding telephone service, will still be far below the price of ACS' 4 Mbps / 1 Mbps offering.

already offers services exceeding these thresholds in the major communities within the ACS service areas, including Anchorage, Fairbanks, Juneau, Kenai/Soldotna, Homer, Kodiak, and Sitka. GCI intends to continue offering its wireline broadband services in the core areas it already serves, even if it loses all wireline high-cost support.

If the Commission, however, were to deem GCI not to be an "unsubsidized competitor," then in each census block in these communities in which GCI provides service, ACS would be able to receive support (unless a fixed wireless provider was also capable of providing service meeting the FCC's unsubsidized competitor requirements). This necessarily means that ACS would be receiving high-cost support to upgrade its services in those census blocks, *i.e.*, to overbuild GCI's already existing service, rather than to extend broadband service to the unserved or to the underserved locations that have no choices for 4 Mbps/1 Mbps broadband service today. Moreover, areas such as Anchorage, Fairbanks, and Juneau, to the extent that the model showed them as areas in which modeled costs would exceed anticipated revenues, would likely tend to be allocated support under the Commission's proposed CAF Phase II mechanism, because they would have a higher number of residences, businesses, and community anchor institutions than smaller communities.[10] This would likely deprive higher cost communities—particularly those with no fixed broadband service today—of high-cost support, given the overall limitations of the Commission's budget.[11]

The result ACS seeks—to exclude any CETC from being an "unsubsidized competitor"—while good for ACS, thus simply makes no sense. It would yield results—funding

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[10] *See USF/ICC Transformation Order*, at 17,728 ¶ 167.

[11] *See id*.

overbuilding—at odds with the policy objectives of the unsubsidized competitor test, and divert scarce universal service dollars away from unserved and underserved census blocks.

GCI wants to be clear that it is not seeking a one-way rule. Just as ACS should not be receiving high-cost support in any area in which GCI would continue to offer its broadband services after the sunset of legacy support, so too should GCI not be able to bid for high-cost support, were ACS to decline a statewide commitment, in areas in which ACS receives legacy high-cost support that would terminate after the CAF Phase II auction. The public interest is not served in either case by distributing high-cost support to areas that will become ones served without any high-cost support, once legacy support transitions are complete.

III. THE COMMISION SHOULD NOT ADOPT A 6 MBPS/1.5 MBPS THRESHOLD FOR AN "UNSUBSIDIZED COMPETITOR," OR, IF IT DOES, SHOULD FOCUS ON NETWORK CAPABILITY RATHER THAN THE PRICE OF THE SERVICE OFFERING.

Just as the Commission should include in the definition of "unsubsidized competitor" a competitor whose legacy high-cost support will terminate, so too should the Commission decline to adopt a 6 Mbps/1.5 Mbps threshold for an unsubsidized competitor, or, if it does, it should focus exclusively upon whether a competitive provider offers such a service—an indicator of network capability—irrespective of price. Again, by doing so, the Commission will avoid diverting scarce high-cost support into overbuilding.

The present situation in Alaska shows why the Commission should not set 6 Mbps/1.5 Mbps as the speed threshold when the public interest requirement initially will be for the CAF Phase II supported provider to deliver 4 Mbps / 1 Mbps service. As shown above, GCI already offers a 10 Mbps / 1 Mbps service for either $29.99 or $39.99 depending on the community. If the Commission were to set 6 Mbps / 1.5 Mbps threshold for considering a provider to be an "unsubsidized competitor" this high capacity, affordable offering would be completely ignored.

If there were no other services offered, ACS could receive support to overbuild this service even if it could be relatively easily upgraded to provide a 1.5 Mbps uplink. That would be a misallocation of scarce high-cost universal service support.

For the same reason, the Commission should not ignore the presence of higher priced, higher speed tiers, as those demonstrate that the network has the capability to provide the supported service, such that using high-cost universal service support to fund building a parallel network to provide the same service would be wasteful. GCI offers a broadband service tier of 18 Mbps downlink/1.5 Mbps uplink for $79.99 per month or $109.99 per month, depending on the community. Even if the Commission were to decide that these rates were above the affordability level for the CAF-mandated broadband service, they demonstrate that the network is capable of supporting such speeds, at least in the last mile, and thus should not be excluded from the unsubsidized competitor test.

IV. THE COMMISSION SHOULD ABANDON THE ILEC ELECTION SYSTEM IN AREAS WITH MULTIPLE FIXED SERVICE ETCS, AND MOVE STRAIGHT TO COMPETITIVE BIDDING.

Notably, the misallocation problems here that are tied to the definition of an "unsubsidized competitor" in areas with multiple wireline ETCs would be wholly avoided if the Commission eliminated the ILEC right-of-first-refusal through the statewide election of CAF Phase II support, and moved directly to distributing support by auction. Were the Commission to do so, the auction would eliminate support in areas in which one or the other ETC believed it did not need support to continue operations, and would target the CAF Phase II support exclusively to those census blocks in which support was actually necessary to provide service. An auction would also eliminate the problem of determining which speed tiers "qualified" a competitor to be an "unsubsidized competitor." As long as multiple bidders committed to providing the required level of service within the Commission-prescribed periods, the reverse auction mechanism should ensure that the provider with the lowest costs to achieve those service levels and to sustain them would be awarded CAF Phase II support. Thus, eliminating the right-of-first-refusal would ensure a more targeted and efficient distribution of scarce high-cost support in areas with multiple wireline ETCs.

V. CONCLUSION

In areas such as Alaska that have multiple, facilities-based terrestrial wireline ETCs, the Commission needs to apply the "unsubsidized competitor" test in a way that accounts for the fact that a currently subsidized ETC will continue operations once support terminates. To fail to do so will lead to a misallocation of scarce high-cost support, wastefully supporting overbuilding in areas where the market will deliver service without high-cost support, while denying needed support to truly unserved and underserved communities. The Commission should thus reject ACS's proposals and consider all competitors that would lose support at the end of the legacy high-cost support transition to be "unsubsidized competitors."

Respectfully submitted,

John T. Nakahata
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

Tina Pidgeon
Chris Nierman
GENERAL COMMUNICATION, INC.
1350 I Street, N.W., Suite 1260
Washington, D.C. 20005
(202) 457-8815

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