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

In the Matter of	)	
	)	
Application for Consent to Assignment of the Broadcast License of Television Station KTVA, Anchorage, Alaska	)))	File No. BALCDT-20130125ABD
	)	
Application for Consent to Assignment of the Broadcast License of Television Stations KATH-LD, Juneau-Douglas, Alaska, and KSCT-LP, Sitka, Alaska	))))	File No. BALTVL-20130125AAK

To: Chief, Media Bureau

Petition to Deny

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Summary

The licensees of television stations in Anchorage, Fairbanks and Juneau, Alaska ("Alaska Broadcasters") file this Petition to Deny the applications of subsidiaries of General Communication, Inc. ("GCI") to acquire television stations in Anchorage and Juneau-Sitka. GCI cable systems pass 90 percent of all Alaska television households, more than half of which subscribe to its service. GCI also provides more than 70 percent of all Alaska consumer broadband connections. Its federally-financed TERRA system will be the only broadband service available to much of rural Alaska, and possibly will be the only effective way for rural communities to obtain any video service. Much of that rural area is outside of any television market, the only area in the United States not assigned to a Nielsen Designated Market Area. The combination of GCI's existing businesses with the television stations GCI wants to acquire will give it the ability and incentive to harm competition in the television market and to reduce service to the public.

When the Commission approved Comcast's acquisition of NBC Universal, it understood the potential harm that can occur when one entity controls both television stations and the delivery platforms on which competing stations and the public who desires their programming rely. The Commission and the Department of Justice required Comcast to accept a series of conditions intended to prevent misuse of control over both content and distribution. GCI's incentive and ability to harm competitors is far greater since, unlike Comcast, it faces little competition in both cable and broadband services.

The Alaska television markets are very small; indeed Juneau and Fairbanks are among the ten smallest markets in the United States. Anchorage stations, including the petitioners,

supply news and information programming to stations in the smaller markets, and Anchorage news is also distributed to rural communities.

In meetings with other stations and with potential employees, GCI officials have revealed their intentions, and those plans are contrary to the public interest. GCI stated that its primary objective in acquiring television stations is to advance its interests as a cable and broadband provider and to use the leverage of its television stations to reduce other stations' ability to negotiate favorable retransmission consent agreements. GCI indicated that it would seek to reduce distribution of competing stations, particularly carriage of news programming in other parts of Alaska, and to provide disadvantageous channel positioning and other carriage conditions for its broadcast competitors. Syndicators who have met with GCI confirmed to Alaska Broadcasters that GCI intends to substitute its owned signals for competing stations on its cable and broadband systems.

The president of GCI's proposed licensees explained that GCI intends to make its news product dominant in the State and that GCI's news content will be biased towards GCI's corporate interests. In fact, GCI has retained as a consultant to supervise its news operations the co-owner of Alaska's largest public relations and political advertising firm, who apparently plans to continue in that role while he determines the content of GCI's news programs.

In discussions with a potential employee, GCI further indicated that, since its interest is to drive viewers to its cable systems, it is considering abandoning the tower used by the Anchorage station it is buying, and transmitting from a site in downtown Anchorage that would leave large parts of the area without over-the-air CBS service. Similar concerns have been raised about its intentions in Juneau.

These boasts by GCI of its intentions demonstrate that grant of these applications would not serve the public interest, as the Commission held in addressing many similar concerns in the *Comcast-NBC Order*:[1]

- **Reducing Over-the-Air Service** The Commission has held for decades that reduction in over-the-air service, particularly when viewers are left without over-the-air access to network programming is *prima facie* inconsistent with the public interest. GCI's statements suggest that it plans to ignore this policy and minimize over-the-air service to increase subscriptions to its cable systems.

- **Disadvantaging Broadcast Competitors by Reducing Exclusivity or Discriminating in Carriage Conditions** The Commission recognized that the combination of Comcast and NBC could harm the public interest by reducing the program exclusivity of competing television stations. Although GCI is not a broadcast network, the same concerns apply to its ownership of television stations where it controls cable and broadband service. In particular, GCI's control over distribution of network-owned non-broadcast programming would give it the ability to pressure broadcast networks to reduce the exclusivity rights of other stations; to permit it to distribute a direct feed of network programming, particularly in the non-DMA areas of Alaska; or to demand that a network move its affiliation to GCI. GCI can also use these positions to demand concessions in retransmission consent negotiations.

    - Comcast and NBC recognized these concerns and voluntarily reached agreements with affiliates of NBC and other networks to prevent abuses. These conditions were approved and adopted by the Commission. Remarkably, GCI proposed no restrictions on its ability to disadvantage other stations, and indeed, its officials confirm that, unlike Comcast which disavowed any such intent, GCI plans to maximize distribution of the signals of its stations to the detriment of its competitors. At the very minimum, the Commission should impose conditions on GCI that are at least as strong as those accepted by Comcast and NBC.

- **Discrimination Against Competing Video Programming on Broadband Systems** The Commission and the Department of Justice both concluded that Comcast would have the ability and incentive to discriminate against content from unaffiliated video providers on its broadband systems. Unlike Comcast, which faced competition from other broadband providers, GCI faces little or no competition in broadband service and has a federally subsidized monopoly position on broadband service in rural Alaska.

    - The Commission barred Comcast from giving priority to its own content on its broadband systems and also prohibited Comcast from treating video from other providers differently in any way on its broadband networks. Comcast also agreed

[1] *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, 26 FCC Rcd 4238 (2011).

to abide by the Commission's Open Internet rules. At least those conditions should also be required of GCI to prevent misuse of its dominant position in the provision of broadband service.

- **News Distortion** Preservation of the independence of television stations' journalistic operations is "a basic tenet" of American communications policy. Although Comcast committed itself to avoiding influence over NBC's news programming decisions, the Commission believed this concern was of sufficient importance to require Comcast to accept a condition guaranteeing NBC's continued "journalistic independence." Repeated statements by GCI to potential employees and other stations, however, show that GCI's plans are to tailor the news Alaskans receive to favor GCI's corporate interests.

In each of these areas, there can be no doubt of GCI's incentive and ability to operate contrary to the public interest. GCI's own statements to other stations in Alaska and to potential employees confirm that, in addition to having the power to act to harm the interests of Alaska viewer and competing television stations, GCI intends to do just that.

In light of the conclusions the Commission reached in considering the Comcast-NBCU transaction which involved less power to harm competitors and the public, as well as the statements of the GCI executives who will run the stations it wants to acquire, the Commission must invite public comment on these applications by designating this as a permit-but-disclose proceeding. It must then thoroughly investigate GCI's plans, and to the extent any doubt exists, should designate these applications for a hearing. At the very least, it cannot grant these applications without imposing conditions on GCI's behavior that are at least as strong as those it required Comcast and NBC to accept.

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To: Chief, Media Bureau

Petition to Deny

Northern Lights Media, Inc., licensee of Station KTUU-TV, Anchorage, Alaska; Coastal Television Broadcasting Company LLC, licensee of Station KTBY(TV), Anchorage, Alaska; Ketchikan TV, LLC, licensee of Station KDMD, Anchorage, Alaska, Station KUBD, Ketchikan, Alaska, Station KTNL, Sitka, Alaska and Station KXLJ-LD, Juneau, Alaska ; Vision Alaska I LLC, licensee of Station KYUR, Anchorage, Alaska; and Vision Alaska II LLC, licensee of Station KATN, Fairbanks, Alaska, and Station KJUD, Juneau, Alaska (collectively "Alaska Broadcasters"), pursuant to Section 309(d)(1) of the Communications Act, 47 USC § 309(d)(1), hereby oppose the above-referenced applications for assignment of license to Denali Media Anchorage Corporation and Denali Media Southeast Corporation, both indirect subsidiaries of General Communication, Inc. ("GCI").

Alaska Broadcasters are licensees of television stations licensed to communities in Alaska. Their interests and those of their viewers would be, as described below, adversely affected by the grant of these applications. The injury to Alaska Broadcasters' economic interests meets the requirement in Section 309(d)1) that petitioners to deny demonstrate that they are a "party in interest." *See Office of Communication of the United Church of Christ v. FCC*, 359 F.2d 994, 1000 (D.C. Cir. 1966).

Grant of these applications would result in the combination of ownership of television stations in two of the three television markets in Alaska with ownership of the largest, indeed in many cases the exclusive, provider of terrestrial cable and broadband service to much of Alaska's population. Further, GCI would hold an almost complete monopoly on providing video to much of rural Alaska, where the only other access now is a single-stream satellite channel relying on analog translators. If these applications are granted, GCI will control television stations in two of Alaska's three television markets, in addition to communications links and distribution platforms that are crucial to the operation of its competitors. As explained below, GCI officials have boasted to business executives and employees of other television stations that they intend to use their combined assets to restrict competition in Alaska, and to reduce the diversity of news and information sources for Alaskans.

In considering Comcast's acquisition of NBC Universal, a transaction with anticompetitive potential consequences that were less dire than the present applications (and where the applicants voluntarily proposed many conditions in their initial applications), the Commission imposed significant conditions limiting the combined entity's ability to exploit its control of both content and distribution, particularly in areas where Comcast owned cable systems and NBC owned television stations.[1] As Alaska Broadcasters will demonstrate, these

[1] *Applications of Comcast Corp., General Electric Co. and NBC Universal, Inc. for Consent to Assign Licenses and Transfer Control of Licenses*, 26 FCC Rcd 4238 (2011)(hereinafter the *Comcast-NBCU Order*).

concerns require the Commission to designate these applications for a hearing, or at a minimum, support the imposition of even stronger conditions on GCI than were imposed on Comcast since GCI faces far less competition in the distribution market than did Comcast.[2]

The factual statements in this Petition are supported by declarations of persons with personal knowledge, which are attached hereto as Appendices A-D.

BACKGROUND

GCI's Unique Position in Alaska

GCI "is [Alaska's] largest provider of internet services with cable modem, wireless and dedicated access. Its cable television services pass 90 percent of the state's households with 64 percent penetration . . . GCI's services are connected through company-owned fiber optic, satellite and metropolitan area network facilities . . . *This broadband platform is the only one of its kind in Alaska.*"[3] In addition to these services to the larger communities in Alaska, GCI – with grants from the Rural Utilities Service and other federal agencies – is constructing and has partially completed a fiber and microwave broadband network serving much of rural Alaska. The two parts of this system – TERRA SW and TERRA NW – will be the exclusive broadband path to a great part of the State.[4]

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[2] Because these proposed transactions may adversely impact the news and other information resources available to a large part of Alaska's population, Alaska Broadcasters urge the Commission to encourage full participation in this proceeding by granting the Motion to Accord "Permit-But-Disclose" Status filed by Northern Lights Media, Inc., Coastal Television Broadcasting Company, LLC, and Ketchikan TV, LLC, on January 31, 2013.

[3] http://www.gci.com/about (last visited Feb. 21, 2013)(emphasis added).

[4] http://terra.gci.com/home (last visited Feb. 21, 2013). GCI's telecommunications competitors have complained that, notwithstanding the federal subsidy for construction and operation of the TERRA network, commercial access has been priced at a level that prevents their use of the system. There is no basis to believe that GCI would offer more favorable terms to its future broadcast competitors.

Alaska has approximately 285,000 television homes. Significant parts of Alaska are not included in any Nielsen Designated Market Area (DMA) – a situation that is unique to Alaska. The three Alaska DMAs are all small by national standards. Anchorage, which is market 145, includes 61.8% of the State's population. The Fairbanks DMA (DMA 202) includes 14.9% of the population. The Juneau DMA (DMA 207) has 10.1% of the population. The remaining non-DMA areas encompass much of rural Alaska and include 13.2% of the State's population. The non-DMA area includes approximately 54,700 television homes and, if it were treated as a television market, would be larger than the Juneau DMA.

GCI is the only significant terrestrial cable provider in Alaska. Its "cable television services pass 90 percent of the state's households."[5] These systems serve 143,000 subscribers,[6] more than half of all television households in Alaska. Although both DISH and DIRECTV provide service in Alaska, the State's high latitude makes it difficult to receive satellite service without unusually high placement for receive dishes, and requires subscribers to acquire larger than normal receive dishes.[7] As a result, non-cable video providers (almost exclusively the two DBS companies) serve only 20% of Juneau, 23% of Anchorage, and 29% of Fairbanks TV households, far less than similar markets in the continental United States. Although there are approximately 16,000 cable households in the non-DMA areas, most of the communities in those areas receive television service from the State-owned Alaska Rural Communications Service

[5] http://www.gci.com/about (last visited Feb. 21, 2013).

[6] http://www.ncta.com/Stats/TopMSOs.aspx (last visited Feb. 21, 2013). GCI, which serves subscribers in only one small state, is the Nation's 23rd largest multiple system owner.

[7] As GCI itself stated, "[w]e believe we offer superior video services relative to direct broadcast satellite ('DBS'), which is limited by Alaska's geographic location, challenging climate and terrain features." General Communication, Inc., Form 10-K (filed March 9, 2012), http://www.sec.gov/Archives/edgar/data/808461/000080846112000012/gciform10k123111.htm (last visited Feb. 27, 2013).

("ARCS"), which provides one composite channel of service from Anchorage stations distributed by satellite to 185 translator stations serving 244 rural communities. The ARCS translators currently provide only analog service. The Alaska legislature is considering a bill to authorize conversion of those translators to digital, but if that is not approved, those translators will have to go off the air by September 2015.[8] If that occurs, GCI's TERRA system will be almost the only path for video programming to the people who live in rural Alaska.

GCI is by far the largest provider of broadband services in Alaska with a 70 percent share of the consumer broadband market.[9] In many areas where it provides broadband service, GCI faces no competing provider.

Because of the small size of the Juneau and Fairbanks DMAs, news and other local programming from Anchorage stations is carried in Juneau and Fairbanks on local television stations. The news programming from KTUU-TV is broadcast in Juneau on KATH-LD and in Sitka on KSCT-LP, the NBC affiliates in that market, which are two of the stations that GCI is seeking to acquire. News produced by KTBY in Anchorage is carried on KATN in Fairbanks and KJUD in Juneau, both licensed to Vision Alaska II LLC. This news programming is transmitted between Anchorage and the other markets on fiber optic cables that are owned and operated by GCI.[10]

Access to viewers in other parts of Alaska is crucial to the ability of Anchorage stations to sell advertising. Local advertising is a much more significant part of the revenues of

[8] *See Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations*, 26 FCC Rcd 10732 (2011).

[9] http://www.gci.com/redpress-release (last visited Feb. 27, 2013).

[10] Appendix E is a map of GCI's proposed and current broadband facilities, including its fiber-optic network connecting the major population centers of Alaska.

Anchorage stations than in most television markets in the continental United States. Resource companies and others place advertising on Anchorage stations to reach a statewide audience. Perhaps as much as 35 percent of the local advertising revenue of KTUU-TV is from advertisers who value its broad reach, including access to rural Alaskans, as critical to their messages, including resource development entities, retail and financial providers, government agencies, advocacy groups and political campaigns.[11] Loss of access to audiences in other areas of Alaska would reduce those stations' ability to cover news and public affairs across the State, a loss that could not be made up by stations in Juneau and Fairbanks, given the limited local resources in those markets.[12]

Thus, GCI is uniquely dominant in Alaska. It faces little or no terrestrial competition for its video and broadband services. DISH and DIRECTV, which compete for video service against cable operators across the continental United States, face geographic constraints that limit their attractiveness and thus their ability to compete with GCI. GCI's TERRA system provides the only broadband access to much of rural Alaska and, if the ARCS system is not upgraded, will in 2015 be virtually the only way that rural Alaskans can access video programming.[13]

The proposed transaction would place GCI in a substantially stronger position than the combination of Comcast and NBCU that the Commission found required conditions to protect competition and the public interest. Comcast faced strong competition for both its MVPD and

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[11] Declaration of Andrew MacLeod, attached hereto as Appendix A.

[12] *Id.*

[13] A portion of the TERRA system is used to provide communications for the Rural Health Service and for other purposes subject to rate regulation. The GCI subsidiary that operates the TERRA system has leased the remaining capacity to a different GCI company, not subject to rate regulation, and users have complained about rates on that portion of the system for both consumers and information providers.

broadband services in every market, both from DBS, telephone companies and other providers. By contrast, GCI is effectively the only provider of terrestrial cable service in Alaska, and the only provider of broadband services in a great part of Alaska.

Statements by GCI Officials Demonstrate That it Does Not Intend to Serve the Public Interest

In discussions with Alaska television stations and potential employees, GCI has been candid about the reasons it sought to acquire broadcast stations and its intentions to use ownership of these television stations to benefit its cable and broadband businesses at the expense of competing video providers and service to the public. GCI officials, including William Behnke, President of the proposed GCI licensee subsidiaries and a Senior Vice President and board member of GCI, met with William Fielder, the owner and CEO of Coastal Television Broadcasting Company LLC, licensee of KTBY(TV), and Scott Centers, Coastal's COO, in an effort to convince Mr. Fielder to sell KTBY to GCI.[14] Mr. Behnke stated that GCI was interested in acquiring television stations primarily to keep rates for retransmission consent agreements with other stations low and referred to one upcoming retransmission consent negotiation that GCI particularly wanted to affect. He further explained that GCI intends to create a dominant news operation that it could provide across Alaska using GCI's cable and broadband connections, including specifically the TERRA network, and that it could use access to those facilities to disadvantage other television stations. One of the GCI officials also explained that the news produced at its stations and distributed over GCI's cable and broadband connections would be news that would be favorable to GCI's corporate interests. In other words,

[14] Declaration of William A. Fielder, III, attached hereto as Appendix C; Declaration of Scott Centers, attached hereto as Appendix D.

they explained that GCI will broadcast only news it wants Alaskans to receive.[15] In discussions with KTUU-TV employees which GCI has tried to recruit, it has expressed the same intent to produce news programs that are friendly to Alaska business interests, in what it apparently sees as a contrast to the news programming now available to Alaskans.[16]

The GCI officials emphasized that, due to the benefits they intend to create for their cable and broadband businesses, GCI is not concerned whether the television stations it would acquire would be profitable. Indeed, they suggested to Mr. Fielder that, once it was announced that GCI was acquiring these stations and constructing a news organization, they expected KTBY to get out of the news business entirely, and offered that GCI was interested in purchasing Coastal's studio facilities. They mentioned that they plan, as part of their efforts to disadvantage competitors, to rearrange the channel lineup on GCI cable systems to place its owned stations on better channels, and presumably competing stations on less advantageous channel positions.

GCI has stated that it intends to construct a new facility in Anchorage with master control operations for all of its Alaska video channels, including the stations involved in this transaction and its GCI Channel 1 cable news channel. GCI discussed those plans with a current KTUU-TV employee, Paul Treece, in an effort to recruit him to run GCI's new master control operations.[17]

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[15] *Id.* During these discussions, they made a point to express their belief that KTBY's General Manager, Scott Centers, is a Democrat, apparently to contrast the way the station now approaches news coverage with GCI's different proposed approach, favoring politically conservative views. In fact, Mr. Centers is not a Democrat, and KTBY presents a balanced news product. Declaration of Scott Centers at 2.

[16] Declaration of Andrew MacLeod at 2. GCI asked John Tracy, a former News Director and anchor at KTUU-TV, to develop its news operations. Since leaving KTUU-TV, Mr. Tracy has been the co-owner of Alaska's largest public relations and advertising firm, representing resource development firms and other advocacy groups. *Id.* at 1-2. Mr. Tracy has given no indication that he intends to give up his role as an advocate while he supervises GCI's news operation.

[17] Declaration of R. Paul Treece, attached hereto as Appendix B.

The GCI project manager with whom Mr. Treece spoke, Trent McNelly – who is slated to be GCI's director of engineering – stated that GCI will construct a facility that can distribute seven separate programming channels, which is three more than would be needed for the three stations it now seeks to acquire and its existing cable news channel.

KTVA's current tower is reported to need substantial repairs.[18] Mr. Treece asked Mr. McNelly about continued use of that site or moving the KTVA transmitter to the joint tower used by most other Anchorage stations, and was told that, since GCI intended to use the acquisition of KTVA to increase cable penetration, it contemplates giving up that tower, and instead placing a short tower and transmitter on top of a building in Anchorage. Doing so would deprive a large part of the Anchorage market of access to an over-the-air CBS signal. A similar concern with respect to reducing over-the-air transmissions in Juneau was raised in an informal objection to these transactions filed by a Juneau resident.[19]

Mr. Fielder and Mr. Centers had a subsequent conversation with Mr. Behnke in which Mr. Behnke asked whether, in light of GCI's entry into the Alaska market, Coastal would abandon its local news operation. Mr. Behnke then suggested that GCI might acquire the KTBY studio facility in Anchorage.[20] Mr. Centers more recently met with a programming syndicator who stated that it was "common knowledge" among syndicators that GCI intends to acquire affiliates of each of the major networks in Alaska, and then take competing stations off of its cable and broadband systems and carry its own station signals and GCI's news across Alaska.[21]

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[18] Unlike most of the other Anchorage stations, KTVA does not transmit from a shared tower site across the bay from Anchorage.

[19] *See* Objection to KATH-LD Reassignment of Walter Gregg, FCC File No. BALDTL-20130125AAL (dated Feb. 22, 2013); http://w-gregg.juneau.ak.us/2013/2013b22-kath.

[20] Declaration of William A. Fielder, III at 2; Declaration of Scott Centers at 3.

[21] Declaration of Scott Centers at 3.

Thus, with perhaps remarkable candor, GCI has been explicit that it does not intend to acquire these three television stations to improve broadcast service to the public. Instead, its intentions – as stated by GCI officials in repeated discussions – are to disadvantage other television stations in retransmission consent negotiations and carriage conditions on GCI cable and broadband systems; to restrict over-the-air coverage from its television stations to drive consumers to its cable systems; to prevent KTUU-TV and other stations from reaching viewers in the areas of Alaska outside of television markets; and – quite frankly – to bias the news programming that Alaskans receive to comport with GCI's liking. These statements by GCI raise serious and material questions about whether approval of these applications would benefit the public interest and require that the Commission designate these applications for a full hearing, or at least require GCI to produce internal documents and memos concerning its objectives.

ARGUMENT

GCI Must Establish that Grant of These Applications Would Serve the Public Interest

Under Section 310(d) of the Communications Act, 47 USC § 310(d), parties proposing an assignment of licenses "bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest."[22] Whether a transaction complies with the specific provisions of the Communications Act or the Commission's rules is not determinative, for even when a waiver is not required to approve transactions, "the Commission

[22] *E.g., Comcast-NBCU Order*, 26 FCC Rcd at 4247; *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings, Inc. to Sirius Satellite Radio, Inc.*, 23 FCC Rcd 12348, 12363 (2008)(hereinafter the *Sirius-XM Order*).

considers whether they could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes."[23]

The Commission's public interest goals include "preserving and enhancing competition . . . [and] ensuring a diversity of information sources and services to the public."[24] The Commission's competitive analysis is not limited to the antitrust laws,[25] but includes a broad analysis of whether a transaction will reduce competition,[26] and a determination of "whether the transaction will affect the quality of communications services."[27]

If the Commission is not able to conclude that the proposed transactions will serve the public interest, or there is a substantial and material question of fact about the transaction or the parties' intentions, the Communications Act requires that the Commission designate the applications for hearing.[28] The Commission may also "impose and enforce narrowly tailored transaction-specific conditions to ensure that the public interest is served by the transaction."[29]

GCI's Ownership of Television Stations Threatens Competition and Diversity

Restricting the Reach of Broadcast Signals

The Commission recognizes that a vertical merger involving television stations and a video distributor may result in "potential anticompetitive use of . . . control over video distribution to deny unaffiliated video programmers access to . . . subscribers or impose

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[23] *Applications for Consent to the Assignment and/or Transfer of Control of Adelphia Communications Corp.*, 21 FCC Rcd 8203, 8217 (2006)(hereinafter the *Adelphia Order*).

[24] *Id.* at 8218.

[25] *Id.*; *see United States v. FCC*, 652 F.2d 72 (D.C. Cir. 1980)(*en banc*).

[26] *Adelphia Order*, 21 FCC Rcd at 8218.

[27] *Comcast-NBCU Order*, 26 FCC Rcd at 4248.

[28] Section 309(e), 47 USC § 309(e); *see Comcast-NBCU Order*, 26 FCC Rcd at 4248 & n.47.

[29] *Sirius-XM Order*, 23 FCC Rcd at 3279.

unreasonable terms for distribution."[30] In the *Comcast-NBCU Order*, the Commission found that NBCU and Comcast would have both the incentive and ability to migrate programming from broadcast television stations to Comcast's cable systems, "and that such action would harm consumers who rely exclusively on OTA broadcasting."[31] Here, GCI told a potential employee that it may abandon its current tower site, which allows the KTVA-TV signal to reach the vast majority of the Anchorage-area population, and substitute a shorter transmission tower in downtown Anchorage that would leave many Anchorage viewers without over-the-air access to CBS programming so that those viewers would have an incentive to subscribe to GCI's cable services.[32] Similar claims have been made with respect GCI's reducing over-the-air service in the Juneau market.[33]

The Commission's longstanding policy is that "loss of service is *prima facie* inconsistent with the public interest, and once a station begins operations, it is obligated to maintain service to its viewing public absent off-setting public benefits to discontinuing service."[34] Since GCI's Director of Engineering stated that GCI had plans to reduce over-the-air service in Anchorage in order to drive viewers to its cable systems – which might benefit GCI, but not the public – this issue alone presents a substantial and material question of fact concerning whether GCI's acquisition of KTVA would serve the public interest, and bars grant of these applications.

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[30] *Comcast-NBCU Order,* 26 FCC Rcd at 4250.

[31] *Id.* at 4306.

[32] Declaration of R. Paul Treece.

[33] *See* Objection to KATH-LD Reassignment of Walter Gregg, FCC File No. BALDTL-20130125AAL (dated Feb. 22, 2013); http://w-gregg.juneau.ak.us/2013/2013b22-kath.

[34] *KNTV License Inc.*, 19 FCC Rcd 15479 n.11 (Med. Bur. 2004); *see West Michigan Telecasters, Inc. v. FCC*, 460 F.2d 883, 889 (D.C. Cir. 1972); *Hall v. FCC*, 237 F.2d 567 (D.C. Cir. 1954).

Reducing or Eliminating Programming Exclusivity

One of the concerns addressed by the Commission in the *Comcast-NBCU Order* was the potential for the merged entities to interfere with other television stations by importing the signal of another television station into a market or by authorizing a Comcast cable television system to carry a direct feed of the NBC television network.[35] Although GCI is not a network, its control over cable and broadband delivery systems in Alaska give it similar potential to demand that CBS or NBC, the networks with which the stations it proposes to acquire are affiliated, give it rights that would harm other Alaska CBS and NBC affiliates. GCI will be able to condition carriage of NBC/Comcast or CBS-owned cable programming on those networks providing it with advantageous terms in its broadcast affiliation agreements. Among other things, GCI will be able to shrink the exclusivity rights provided to affiliates in other Alaska markets, or perhaps even to carry a direct feed of the CBS or NBC network signal if GCI cannot reach a retransmission consent agreement with the affiliates in those other markets.[36] The Commission recognized that permitting bypass of local network affiliates would harm the public interest in its 2005 *Report to Congress on Retransmission Consent and Exclusivity Rules.*[37] The Commission cannot grant these applications without addressing the obvious potential for GCI, and its apparent intention, to act contrary to the public interest.

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[35] *Comcast-NBCU Order*, 26 FCC Rcd at 4307.

[36] A syndicator who is negotiating with GCI stated that it is "common knowledge" in the syndication community that GCI's goal is to remove or reduce distribution of competing stations. Declaration of Scott Centers at 3.

[37] *Report to Congress, Retransmission Consent and Exclusivity Rules: Report to Congress Pursuant to Section 208 of the Satellite Home Viewer Extension and Reauthorization Act of 2004*(Sept. 8, 2005), http://hraunfoss.fcc.gov/edocs_puublic/attachmatch/DOC-260936A1.pdf at ¶¶ 50-51

GCI's Ability to Bypass Affiliates and Discriminate in Retransmission Consent and Carriage Conditions

"Congress and the Commission have long been concerned about the possibility that an integrated video firm may exploit its ability to exclude its distribution rivals from access to its programming, or raise programming prices to harm competition in video distribution."[38] GCI would be in a position to use its control over cable and broadband distribution of non-broadcast networks to pressure the broadcast networks to supply it with a direct network feed for its cable and broadband customers in the Alaska areas not within a DMA. The Commission understands that the network-broadcast relationship is "'fundamentally premised both on the network's ability to acquire exclusive rights from its suppliers, and on the affiliated stations' ability to enjoy program exclusivity in their respective marketplaces. This vital feature of free over-the-air television has been true for over forty years.'"[39]

Similarly, GCI would be able to use its control over access to cable and broadband households to reduce retransmission consent rates or to impose disadvantageous carriage conditions on stations that compete with GCI's owned stations. Indeed, GCI officials have stated that reducing retransmission consent costs and disadvantaging competitors on its cable and broadband systems is the central purpose of GCI's proposed entry into television station ownership.[40] It could also use its control over fiber-optic connections that make it possible for KTUU-TV and KTBY to distribute news and other local programming to stations in the rest of Alaska as leverage to obtain retransmission consent agreements (indeed GCI has already done

[38] *Comcast-NBCU Order*, 26 FCC Rcd at 4252.

[39] *Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries*, 3 FCC Rcd 5299, 5318 (1988)(*quoting* Comments of CBS), *aff'd sub nom. United Video, Inc. v. FCC*, 890 F.2d 1173 (D.C. Cir. 1989).

[40] Declaration of William A. Fielder, III at 2.

so), or to impose costs that would bar Anchorage competitors from distributing their news programming in other markets. And, as discussed above, GCI would be in a position to use its control over cable and broadband distribution of non-broadcast networks to pressure the broadcast networks to give it rights to distribute network programming in other Alaska markets and in the non-DMA areas, or even to pressure networks to abandon their existing affiliates and affiliate with GCI-owned stations or provide a direct feed to GCI's cable system, further reducing competition for advertising and diversity of programming in Alaska.

The Commission for many years barred common ownership of broadcast stations and cable television systems. In *Amendment of Section 76.501to Eliminate the Prohibition on Common Ownership of Cable Television Systems and National Television Networks*, 7 FCC Rcd 6156 (1992), the Commission allowed the national broadcast networks to acquire cable systems. Notably, its objective was to strengthen *broadcasting* by permitting the networks to take advantage of revenues from cable systems. *Id.* at 6161-63. Recognizing, however, that "network-cable operators could use their enhanced leverage to harm local broadcast stations through certain discriminatory practices," it barred network-cable combinations if they included more than 50 percent of the homes passed by cable within a television market. *Id.* at 6168. GCI's cable systems pass more than *90 percent* of all television households in Alaska, far above the level that the Commission found would create an excessive risk of harm to the public interest.

The Commission's ban on common ownership of cable systems and television stations in a local market was subsequently vacated in *Fox Television Stations, Inc. v. FCC*, 280 F.3d 1027 (D.C. Cir. 2002). A central reason for the court's conclusion that the risk of discrimination against competing stations was low was that "competition from direct broadcast satellite (DBS) providers makes discrimination against competing stations unprofitable." *Id.* at 1050. In Alaska, however, direct broadcast satellite operators are less able to compete with cable systems, as GCI itself concedes.[41] Thus, the proposed transaction (1) violates a limit the Commission placed on network ownership of cable systems and (2) a core premise for repeal of the local cable-broadcast cross-ownership rule does not apply to the Alaska markets. GCI should not be permitted to argue that its ownership of these stations is contemplated by the Commission's rules.

Moreover, despite the repeal of the cable-broadcast cross-ownership rule, the Commission has consistently understood the risks to the public interest from abuses of affiliate exclusivity rights and the retransmission consent negotiation process. Comcast and NBCU, unlike GCI, acknowledged the legitimacy of these concerns about misuse of combined ownership of programming sources and distribution, and they entered into agreements with NBC affiliates not owned by NBCU and with the affiliates of other networks to ameliorate the potential effects of the merger.[42] The Commission concluded that, "[w]e agree that the transaction poses the potential for the Applicants to harm the network-affiliate relationship, as well as interfere with the retransmission consent process."[43]

The Commission adopted as conditions agreements that maintained the integrity of television markets by preserving existing exclusivity provisions and by prohibiting transmission of same-day linear feeds of NBC programming into areas with existing NBC affiliates.[44] In particular, the Commission concluded, recognizing that the retransmission consent process had

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[41] *See supra* note 7.

[42] *See Comcast-NBCU Order,* Appendix F.

[43] *Comcast-NBCU Order*, 26 FCC Rcd at 4309.

[44] *Id.* & Appendix F.

become more contentious, Comcast "would have an increased incentive to engage in affiliate bypass."[45] Given GCI's control over access to a majority of TV households and an overwhelming majority of broadband households in Alaska, it will have the same incentive and the potential power to engage in bypass, particularly in the areas of Alaska not in a DMA. The Commission's conclusions in the *Comcast-NBCU Order* that exercise of that power would disserve the public interest fully apply to the instant applications and require that they be denied unless similar or stronger conditions are imposed.

Comcast and NBCU also reached agreements with affiliated stations of other networks barring discrimination with respect to retransmission consent and carriage conditions against stations not owned by Comcast or affiliated with NBC. Those agreements, which the Commission incorporated as conditions to its approval of that transaction, prohibited all forms of discrimination (including price differentials unrelated to marketplace conditions) in retransmission consent negotiations with stations not under Comcast's control, and Comcast could not rely on any agreement between it and an NBC station to establish marketplace conditions. Comcast agreed not to discriminate in carriage conditions of any sort against stations not owned by NBCU or affiliated with NBC. Comcast also was required to conduct negotiations for retransmission consent with personnel who do not work at NBCU or its stations and to negotiate retransmission consent agreements with non-owned stations in good faith and at arm's length.[46]

The concerns that supported these agreements and their incorporation into the Commission's approval of the Comcast-NBCU transaction apply in this case to an equal or

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[45] *Id.*, 26 FCC Rcd at 4311.

[46] *Id.*, 26 FCC Rcd at 4309 & Appendix F.

greater extent. GCI, once it owns stations in two of the three television markets in Alaska, will have both the incentive and the ability to favor its owned stations in retransmission consent negotiations and in carriage conditions. Indeed, unlike Comcast and NBCU, which voluntarily committed to conditions to prevent any such behavior, GCI officials have bragged that its objective in these transactions is to leverage these stations to harm other broadcasters in retransmission consent negotiations and to gain a competitive advantage by manipulating channel positions to disadvantage competing stations.[47] The Commission should designate these applications for a hearing to determine GCI's actual intent and the extent of its plans to use the acquisition of these stations to harm retransmission consent negotiations, or at a minimum, it should impose the same type of conditions that it required Comcast to accept when it acquired stations in markets where it also operated cable systems, tailored to Alaska's unique television market conditions.

GCI Will Have the Ability and Incentive to Discriminate on its Broadband Systems

GCI now provides over 70 percent of the consumer broadband connections in Alaska.[48] In the parts of rural Alaska served or to be served by GCI's TERRA system, it will be the only broadband supplier. And if the state-owned ARCS system is not upgraded to digital by 2015, the TERRA broadband system will be virtually the only source of video for the almost 14 percent of Alaskans who live in areas outside of television markets.

Thus, GCI occupies a dominant position in the provision of broadband services to Alaskans and in particular to rural Alaskans. In this regard, GCI is in a much stronger position than was Comcast which faced competing broadband providers in all, or almost all, of its

[47] Declaration of William A. Fielder, III at 3.

[48] http://www.gci.com/redpress-release (last visited Feb. 27, 2013).

markets. Even where such competition existed, which it does not for GCI, the Commission concluded:

> We also identify particular transaction-related harms that arise from the increased risk that Comcast will engage in blocking or discrimination when transmitting network traffic over its broadband service. Specifically, we find that Comcast's acquisition of additional programming content that may be delivered via the Internet, or for which other providers' Internet-delivered content may be a substitute, will increase Comcast's incentive to discriminate against unaffiliated content and distributors in its exercise of control over consumers' broadband connections.[49]

Those concerns about the public interest in receiving online content apply with greater force to GCI, and in particular if it becomes the sole path for news and information to reach much of rural Alaska.

In the Comcast-NBCU proceeding, the applicants again acknowledged the potential for these adverse consequences and offered conditions to address them. This stands in stark contrast to GCI, which filed its application without addressing any of the potential anticompetitive consequences of the transaction or offering any conditions to ameliorate them.

The Commission accepted Comcast's proffered conditions and imposed others:

> The Applicants have agreed that, in their provision of broadband Internet access services, neither Comcast nor Comcast-NBCU shall prioritize affiliated Internet content over unaffiliated Internet content. In addition, any Comcast or Comcast-NBCU broadband Internet access service offering that involves caps, tiers, metering, or other usage-based pricing shall not treat affiliated network content differently than unaffiliated network traffic.[50]

In addition, the Commission required Comcast-NBCU to agree that the merged entities would comply with the FCC's Open Internet rules[51] even if those rules were overturned in court.[52] The

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[49] *Comcast-NBCU Order*, 26 FCC Rcd at 4275.

[50] *Id.*

[51] *Preserving the Open Internet: Broadband Industry Practices*, 25 FCC Rcd 17905 (2010), *appeal docketed*, No. 11-1355 (D.C. Cir.).

Commission also recognized that a broadband provider could offer video services over broadband facilities that would be regulated as Specialized Services, not subject to the rules generally governing broadband access services. It made clear that the same non-discrimination principles would apply if Comcast and NBCU offered this kind of service:

> If Comcast or Comcast-NBCU offers any Specialized Service that makes content from one or more third parties available (or that otherwise enables the exchange of network traffic between one or more third parties and) Comcast or Comcast-NBCU subscribers, Comcast-NBCU shall allow any comparable third party to be included in a similar Specialized Service on a nondiscriminatory basis.[53]

The Commission should require GCI to disclose its plans for offering video services over its broadband networks and whether it plans to offer those services to consumers and unaffiliated video providers under the same terms and conditions that it will apply to its own video content, or it should designate these applications for a hearing on those questions. At the very minimum – particularly given GCI's far stronger position in offering broadband services than Comcast had – it should impose conditions on GCI's broadband services at least as strong to the ones it required Comcast to accept.[54]

GCI's Threats of News Distortion are Contrary to the Public Interest

In the Comcast-NBCU proceeding, the parties pointed to a long record of NBC's corporate owners maintaining the integrity of NBC's news and public affairs programming to ensure that it was not influenced by its owners' non-media interests, and promised to maintain

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[52] *Comcast-NBCU Order*, 26 FCC Rcd at 4275.

[53] *Id.*, 26 FCC Rcd at 4276.

[54] Notably, the Department of Justice and Comcast also entered into a consent decree which imposed further restrictions on Comcast's ability to discriminate against unaffiliated video source in operating its broadband networks. *United States v. Comcast Corp.*, 808 F. Supp. 2d 145 (D.D.C. 2011).

that policy.[55] The Commission made clear that "it is important that the proposed transaction not compromise the journalistic operations of NBCU. Such independence is a *basic tenet of our communications policy*."[56] Despite Comcast and NBC's assurances that the previous hands-off policies with respect to news content would continue, the Commission believed that "it is appropriate to condition our approval on the Applicants' commitment to ensure the continued journalistic independence of the Applicants' news operations."[57] The Commission found that further protections were not necessary "[b]ecause no commenter has offered evidence that GE's current policy and ombudsman system have failed to prevent undue corporate influence compromising NBC's news reporting."[58]

GCI, however, has not only failed to offer such a commitment, it has been explicit in discussions with other stations and potential employees that it plans to do exactly what the Commission does not want – to tailor the news Alaskans receive to GCI's liking.[59] Perhaps the GCI senior officials making these statements were not expressing GCI's true intentions, but the fact is that they said it, and more than once.

Further, GCI has retained a former broadcaster in Alaska, John Tracy, to supervise its expanded news operations. Mr. Tracy is now the co-owner of Alaska's largest public relations and advertising firm. In that capacity, he has advocated for resource development companies,

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[55] *Comcast-NBCU Order*, 26 FCC Rcd at 4322.

[56] *Id.* (emphasis added); *see Editorializing by Broadcast Licensees*, 13 FCC 1246, 1249 (1949)("It is axiomatic that one of the most vital questions of mass communication in a democracy is the development of an informed public opinion through the public dissemination of news and ideas concerning the vital public issues of the day.")

[57] *Comcast-NBCU Order*, 26 FCC Rcd at 4323.

[58] *Id.*

[59] Declaration of William A. Fielder, III at 2; Statement of Scott Centers at 2; Statement of Andrew MacLeod at 2.

candidates and other advocacy groups.[60] Mr. Tracy apparently intends to continue his advocacy role while at the same time supervising GCI's news operations. Whether and how GCI proposes to address the obvious conflicts created by Mr. Tracy's dual role should be fully explored before the Commission acts on these applications.

With any transaction, the possibility of news distortion at a television station to serve its owner's non-media corporate interests would present serious questions as to whether transferring a license to that owner would serve the public interest. But where an applicant's owner has openly stated that intention, the Commission cannot approve the transaction without a thorough and careful examination of the applicant's plans and intentions, particularly in Alaska where there are relatively few other, independent sources of news and information.

Thus, even if the other serious issues concerning GCI's proposed ownership of both television stations and dominant cable and broadband networks did not exist, GCI's stated plans to manipulate the news on its television stations to serve its corporate interests requires the Commission to designate these applications for a hearing.

Conclusion

For the foregoing reasons, the Commission should designate these applications for a hearing concerning whether GCI intends to preserve the independence of the news operations at the stations it seeks to acquire; whether it intends to reduce the level of over-the-air service in Anchorage and Juneau; and whether it plans to use its broadband and cable facilities to discriminate against other television stations and providers of video programming. Certainly, given the evidence of GCI's plans to act in a way that is contrary to the public interest, the Commission should require it to disclose all documents relating to its plans. At the very least,

[60] Declaration of Andrew MacLeod at 1-2.

the Commission should grant Alaska Broadcasters' pending motion to make this a permit-but-disclose proceeding to allow participation by all affected parties, and it should impose on GCI conditions similar to or stronger than the conditions it required Comcast to accept before it acquired the NBC stations.

Respectfully submitted,

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Counsel for Vision Alaska I LLC and Vision Alaska II LLC

March 1, 2013

Appendix A

Declaration of Andrew MacLeod

Declaration of Andrew MacLeod

Andrew MacLeod declares as follows:

1. I am the President of Northern Lights Media, Inc. and the General Manager of Television Station KTUU-TV, Anchorage, Alaska. I have worked in Alaska television since 1985.

2. KTUU-TV devotes more resources to news and public affairs programming than any other television station in Alaska, with over half its 103 employees involved in getting 22-plus hours of news out to Anchorage, Juneau and over 244 rural communities each week. Its news programming is the ratings leader in Anchorage and it is also carried by the NBC affiliates in Juneau and Sitka. KTUU-TV's news is distributed to rural Alaskans over the Alaska Rural Communications Service (ARCS) satellite-delivered program stream.

3. Because KTUU-TV's news programming is available to most of the television households in Alaska, it is able to attract many advertisers who need their messages to reach a rural population scattered across the State in small communities, including resource development entities, financial concerns, state-wide retailers, government agencies, and political campaigns and advocacy groups.

4. Local advertising is a much more significant part of the revenues of KTUU-TV and other Anchorage stations than is typical of most stations in the continental United States. If KTUU-TV's programming were no longer available across Alaska, as much as 35 percent of its revenues would be in jeopardy, and it would no longer be able to devote the resources KTUU-TV now does to local news and public affairs programming.

5. If the ARCS system is not upgraded to digital and is abandoned after 2015, the only access to the 244 communities now served by ARCS would be over the TERRA networks owned by General Communication, Inc. (GCI). Given GCI's explicit objective of using its ownership of television stations to benefit its cable and broadband operations, I am concerned that, if ARCS disappears, GCI will impose discriminatory rates on other television stations, such as KTUU-TV, to use the TERRA network to reach rural Alaskans.

6. Other telecommunications providers in Alaska have complained to me that GCI charges them excessive rates to use GCI's federally-financed TERRA system, which is the only broadband path to much of rural Alaska. Similarly, cable and broadband customers of GCI have complained that its rate structure makes access to unaffiliated video over its broadband systems prohibitively expensive for consumers.

7. John Tracy was for many years the News Director and on-air news anchor of KTUU-TV. He left that position over four years ago before KTUU-TV was acquired by Northern Lights Media, Inc. Since then, he has been the co-owner of the largest public relations and advertising agency in Alaska. In that position, he has been a leading advocate for resource development interests, including advocacy for the controversial Pebble mine

project, and has clients with interests in oil production and development, politics, medical, tourism and others industries.

8. Mr. Tracy was hired by GCI as a project contractor to establish a news organization for its cable news channel and for the three television stations it seeks to acquire. There has been no indication that Mr. Tracy intends to give up his position advocating public positions for clients while he supervises GCI's news operations, despite the apparent conflict between the two roles.

9. Two KTUU-TV employees, Rhonda McBride and David DeGraffenreid, were hired by GCI. They discussed GCI's plans with Mr. William Behnke , the President of Denali Media and a Senior Vice President and board member of GCI. Both Ms. McBride and Mr. DeGraffenreid told me that Mr. Behnke stated that GCI's objective was to produce the "right kind of news" that would apparently be more business-friendly than the news now available to Alaskans from KTUU-TV and other stations.

10. I have read the Petition to Deny of Northern Lights Media, Inc. and other Alaska Broadcasters and, to the best of my knowledge and belief, the factual statements contained in the Petition to Deny are true and correct.

11. I declare under penalty of perjury that the above statements are true and correct.

Andrew MacLeod

March 1, 2013

Appendix B

Declaration of R. Paul Treece

Declaration of R Paul Treece

R Paul Treece declares as follows:

1. I am Master Control Manager of KTUU-TV, Anchorage, Alaska.

2. I was recruited to leave KTUU-TV and accept a position with Denali Media once formed after FCC approval for the license transfer of KTVA to be an engineer at the proposed new facility in Anchorage. I ultimately chose to reject this offer and remain in my current position.

3. I agreed to speak with GCI and had two discussions with Trent McNelly, who is the Director of Engineering and Operations for the new facility of Denali Media.

4. During these discussions, I was told that, even though Denali Media was acquiring television stations, it would be primarily a cable television company.

5. The facility that GCI and Denali Media plan to construct in Anchorage would provide all programming for KTVA-TV, the two television stations GCI proposes to acquire in the Juneau-Sitka market and for GCI Channel 1. The programming of the Juneau stations would be transmitted to Juneau by fiber. The facility would have the capacity to provide seven channels of video programming.

6. I am aware of the poor condition of the tower currently used by KTVA-TV, and I asked whether GCI and Denali Media planned to reconstruct that tower. I was told that they did not care about the tower and that, as an alternative, they may move the antenna and transmitter to the top of a building in Anchorage. I pointed out that this would reduce coverage, including in the Mat-Su Valley where the KTVA-TV signal had limited coverage now. He emphasized that Denali Media was a cable company and that GCI was increasing their cable penetration in the valley.

7. I declare under penalty of perjury that the above statements are true and correct.

R Paul Treece

R Paul Treece

February 26, 2013

Appendix C

Declaration of William A. Fielder, III

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Application for Consent to Assignment of the Broadcast License of Television Station KTVA, Anchorage, Alaska	)))	File No. BALCDT-20130125ABD
	)	
Application for Consent to Transfer of Control Of North Star Television Network and Dan R. Etulain (Television Stations KATH-LD, Juneau-Douglas, Alaska, and KSCT-LP, Sitka, Alaska	)))))	File No. BALTVL-20130125AAK

To: Chief, Media Bureau

DECLARATION OF WILLIAM A. FIELDER, III

1. My name is William A. Fielder, III. I am the President and Chief Executive Officer of Coastal Television Broadcasting Company LLC ("Coastal") licensee of television station KTBY(DT), Anchorage, Alaska.

2. On or about October 10, 2012, I attended a meeting at William Behnke's office. Mr. Behnke is the President of Denali Media Anchorage, Corp. and Senior Vice President of General Communication, Inc., the sole shareholder of GCI, Inc. Also in attendance at that meeting were Robert W. Ormberg, Vice President, Content Products of General Communication, Inc. and Scott Centers, Chief Operating Officer and General Manager of Coastal.

3. At that meeting, Mr. Behnke indicated that GCI wanted to acquire a television station in the Anchorage market and initially asked if Coastal was interested in selling its station.

4. Mr. Behnke also inquired as to whether I was pursuing a purchase of KTVA(DT). I did not indicate that I was pursuing such an acquisition.

5. Mr. Behnke related that GCI, either in connection with other parties or through related entities, had submitted a "low ball" offer approximately a year earlier to purchase KTVA, but that that offer had been refused.

6. Mr. Behnke stated that after GCI's offer to acquire KTVA had been refused, his attention turned away from broadcast acquisitions to completing a transaction with Alaska Communications Systems Group, Inc. With that transaction now complete, Mr. Behnke indicated that he was refocusing on a broadcast television transaction.

7. Mr. Behnke informed us that GCI intended to purchase a station using cash, and had sufficient revenue to close that transaction, outfit, and operate the television station.

8. Mr. Behnke stated that GCI had hired a former employee of KTUU-TV, Anchorage, as a consultant and was interested in closing a deal very quickly due to a retransmission consent deal that was due to expire at the end of the year. Mr. Behnke did not indicate the specific retransmission consent deal to which he was referring.

9. Mr. Behnke discussed GCI's motivation in acquiring a television station, indicating that GCI was not concerned about profitability of the station itself, but was interested in obtaining a unique asset that GCI could use to enhance GCI's business presence in Alaska, including by increasing the number of subscribers to its cable television systems.

10. Mr. Behnke (who as noted above is now the President of the proposed licensee of KTVA) stated that he believed that KTUU-TV was vulnerable to competition in the news department and that GCI intended to compete by, among other things, delivering fully commercial-free newscasts. Mr. Behnke stated that GCI will develop a statewide news network that they could use to dominate the news market in Alaska, and to impact the content of news received by Alaska viewers, assuring viewpoints favorable to GCI's corporate interests.

11. Several weeks after our initial meeting, on Friday, November 9, 2012, GCI issued a press release stating that GCI had agreed to purchase KTVA, as well as two television stations in the Juneau market.

12. I received an e-mail from Mr. Behnke the weekend following November 9 requesting a meeting with me. We scheduled and held a conference call on Monday, November 12, 2012. The call took place with Mr. Behnke, Mr. Ormberg, and Mr. Centers present in Mr. Behnke's office and me joining by telephone.

13. During that call, Mr. Behnke informed us that the reason he had requested the call was to discuss whether Coastal was interested in leasing or selling its studio building on 2700 E. Tudor Rd. Mr. Behnke also inquired as to whether Coastal would be abandoning the local news market after GCI closed on its acquisition of KTVA. The message from GCI at this point was clear. They believe Coastal would have no use for its television station building or no reason to continue to invest in its news product after GCI entered the television market.

14. Mr. Behnke shared with us that GCI hoped to close on its acquisition of KTVA before the end of February 2013 and intended to move into a new studio by the end of the second or third quarter of 2013.

15. Mr. Behnke indicated that GCI, after closing, intended to double KTVA's news staff, integrate the KTVA and GCI sales staffs and traffic management, and rearrange the channel lineup on GCI's cable television systems to provide KTVA more advantageous channel positioning. Mr. Behnke also stated that GCI planned to compete head to head with KTUU-TV's newscasts and that GCI planned to re-run KTVA's newscasts on a 24-hour news and weather service available on KTVA's cable systems.

16. I have read the accompanying "Petition to Deny" and to the best of my knowledge and belief, the factual statements in it are true and correct.

17. I declare under penalty of perjury that the foregoing is true and correct.

February 28, 2013

William A. Fielder, III

William A. Fielder, III
President and CEO
Coastal Television Broadcasting
Company LLC

Appendix D

Declaration of Scott Centers

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Application for Consent to Assignment of the Broadcast License of Television Station KTVA, Anchorage, Alaska	)	File No. BALCDT-20130125ABD
	)	
Application for Consent to Transfer of Control Of North Star Television Network and Dan R. Etulain (Television Stations KATH-LD, Juneau-Douglas, Alaska, and KSCT-LP, Sitka, Alaska	)	File No. BALTVL-20130125AAK

To: Chief, Media Bureau

DECLARATION OF SCOTT CENTERS

1. My name is Scott Centers. I am the Chief Operating Officer of Coastal Television Broadcasting Company LLC ("Coastal"), licensee of television station KTBY(DT), in Anchorage, Alaska. I also serve as the General Manager for KTBY (DT) and am a resident of Anchorage, Alaska.

2. On or about October 10, 2012, I attended a meeting at William Behnke's office. Mr. Behnke is the President of Denali Media Anchorage, Corp. and Senior Vice President of General Communication, Inc., the sole shareholder of GCI, Inc. ("GCI"). Also in attendance at that meeting were Robert W. Ormberg, Vice President, Content Products of General Communication, Inc. and William A. Fielder, III, President and Chief Executive Officer of Coastal.

3. At that meeting, Mr. Behnke indicated that GCI wanted to acquire a television station in the Anchorage market and initially asked if Coastal was interested in selling its station.

4. Mr. Behnke also inquired as to whether Mr. Fielder was pursuing a purchase of KTVA(DT). Mr. Fielder did not indicate that he was pursuing such an acquisition. I asked Mr. Behnke if the meeting he was hosting was indeed about the purchase of our station or was it his intent to find out if we were attempting to purchase KTVA. He made a reference to putting all cards on the table and began to explain his journey leading up to this meeting and what lay ahead. He reinforced that GCI would make a purchase, if not us then they would purchase a another TV station.

5. Mr. Behnke related that GCI, either in connection with other parties or through related entities, had submitted a "low ball" offer approximately a year earlier to purchase KTVA, but that that offer had been refused.

6. Mr. Behnke stated that after GCI's offer to acquire KTVA had been refused, his attention turned away from broadcast acquisitions to completing a transaction with Alaska Communications Systems Group, Inc. With that transaction now complete, Mr. Behnke indicated that he was refocusing on a broadcast television transaction.

7. Mr. Behnke informed us that GCI intended to purchase a station using cash, and had sufficient revenue to close that transaction, outfit, and operate the television station.

8. Mr. Behnke stated that GCI had hired a former employee of KTUU-TV, Anchorage, as a consultant and was interested in closing a deal very quickly due to a retransmission consent deal that was due to expire at the end of the year. Mr. Behnke did not indicate the specific retransmission consent deal to which he was referring.

9. Mr. Behnke discussed GCI's motivation in acquiring a television station, indicating that GCI was not concerned about profitability of the station itself, but was interested in obtaining a unique asset that GCI could use to enhance GCI's business presence in Alaska, including by increasing the number of subscribers to its cable television systems.

10. Mr. Behnke (who as noted above is now the President of Denali Media Anchorage Corp., the proposed licensee of KTVA) stated that he believed that KTUU-TV was vulnerable to competition in the news department and that GCI intended to compete by, among other things, delivering fully commercial-free newscasts. Mr. Behnke stated that GCI will develop a statewide news network that they could use to dominate the news market in Alaska, and to impact the content of news received by Alaska viewers, assuring viewpoints favorable to GCI's corporate interests. Noteworthy is that during this part of the conversation, when GCI discussed their proposed politically conservative approach to news, a comment was made by one of the GCI officials in the meeting, about my being a Democrat in a derogatory fashion. This was a presumption on his part, as I'm not a Democrat, but Coastal does provide a balanced news product which may have led to his conclusion regarding my affiliation.

11. Several weeks after our initial meeting, on Friday, November 9, 2012, GCI issued a press release stating that GCI had agreed to purchase KTVA, as well as two television stations in the Juneau market.

12. Mr. Fielder received an e-mail from Mr. Behnke the weekend following November 9 requesting a meeting. We scheduled and held a conference call on Monday, November 12, 2012. The call took place with Mr. Behnke, Mr. Ormberg, and me present in Mr. Behnke's office and Mr. Fielder joining by telephone.

13. During that call, Mr. Behnke informed us that the reason he had requested the call was to discuss whether Coastal was interested in leasing or selling its studio building on 2700 E. Tudor Rd. Mr. Behnke also inquired as to whether Coastal would be abandoning the local news market after GCI closed on its acquisition of KTVA. The message from GCI at this point was clear. They believe Coastal would have no use for its television station building or no reason to continue to invest in its news product after GCI entered the television market.

14. Mr. Behnke shared with us that GCI hoped to close on its acquisition of KTVA before the end of February 2013 and intended to move into a new studio by the end of the second or third quarter of 2013.

15. Mr. Behnke indicated that GCI, after closing, intended to double KTVA's news staff, integrate the KTVA and GCI sales staffs and traffic management, and rearrange the channel lineup on GCI's cable television systems to provide KTVA more advantageous channel positioning. Mr. Behnke also stated that GCI planned to compete head to head with KTUU-TV's newscasts and that GCI planned to re-run KTVA's newscasts on a 24-hour news and weather service available on KTVA's cable systems.

16. On February 27, 2013, I met with a programming syndicator. He advised me that it was communicated to him and is common knowledge within the syndicated programming community in Southern California that GCI's goal is to have one of each major television network affiliation in Alaska, so it can take the other Alaska network affiliates off their cable systems and broadcast their stations and news throughout Alaska. He was told that this is why GCI is purchasing the NBC affiliates in the Juneau market.

17. I have read the accompanying "Petition to Deny" and to the best of my knowledge and belief, the factual statements in it are true and correct.

18. I declare under penalty of perjury that the foregoing is true and correct.

Scott Centers
General Manager and COO
Coastal Television Broadcasting
Company LLC

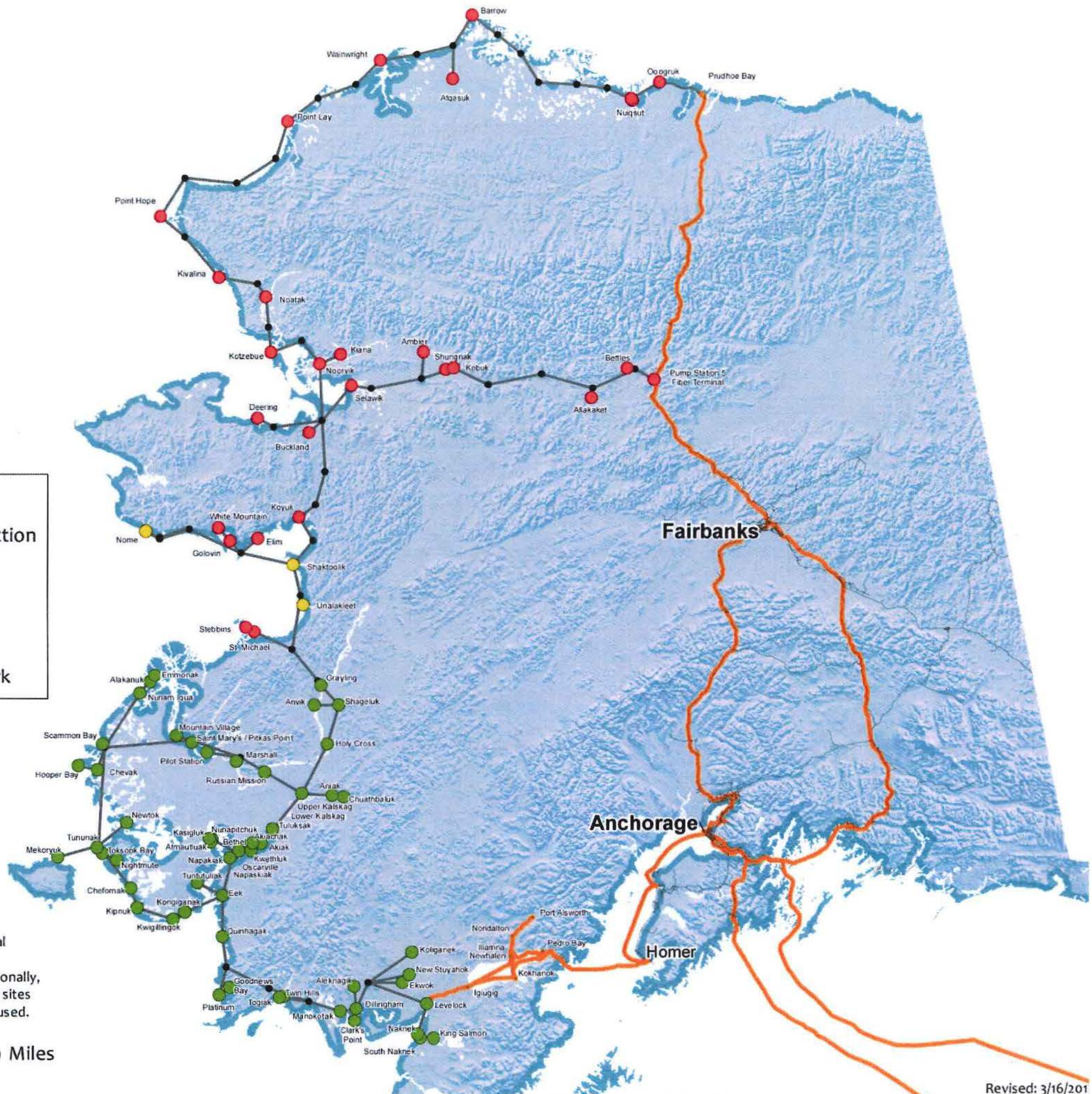
Executed on 3-1, 2013

Appendix E

GCI's Broadband and Fiber-Optic Connections

TERRA GCI

TERRA Long Term Vision



- Proposed Microwave Site
- Microwave Site Under Construction
- Existing Microwave Site
- Microwave Repeater
- Microwave Link
- Existing GCI Fiber-Optic Network

Note: This map represents GCI's long term vision to bring a terrestrial telecommunications network to many areas of rural Alaska. The "proposed microwave sites" are not funded or financed and only represent a possible future network. Additionally, "proposed microwave sites" do not reflect all possible future sites in Alaska, and other technology, such as fiber optics, may be used.

0 50 100 200 300 Miles

Revised: 3/16/201

Certificate of Service

I, Jack N. Goodman, hereby certify that I have, on this 1st day of March 2013, caused to be sent by mail, first-class postage prepaid, copies of the foregoing "Petition to Deny" to the following:

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