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July 11, 2013

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: FCC Legal Advisor Meetings, July 8-9, 2013

Dear Ms. Dortch,

On Monday, July 8, and Tuesday, July 9, 2013, members of the Alaska Rural Coalition (“ARC”) met with the legal advisors to the FCC Commissioners. I participated in person and Michael Burke (Burke Watson), Elizabeth Gray Nuñez (Dorsey & Whitney), Ken Bahr (Matanuska Telephone Association), Robert Dunn (TelAlaska), Dan Lindgren (Ketchikan Public Utilities), Dave Dengel (Copper Valley Telephone Cooperative), Clover McNeil and Steve Merriam (Arctic Slope Telephone Association Cooperative), Doug Neal (OTZ Telephone Cooperative), Michael Garrett (Alaska Power and Telephone Company) and Larry Snipes and Susan Hardenbergh (AKT) participated via telephone.

In separate meetings, we spoke to Rebekah Goodheart, Legal Advisor to Commissioner Clyburn, Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel and Nicholas Degani, Legal Advisor to Commissioner Pai. The substance of these meetings was substantially similar.

Our discussion focused on two major topics, the Remote Areas Fund (“RAF”) and the Tribal Mobility Fund. Regarding the RAF, the ARC members indicated their belief from experience that subsidies for individualized satellite equipment will not be an effective way to deploy broadband in Alaska. Regarding the Tribal Mobility Fund, the ARC members expressed concern that few Alaska parties will be able to successfully bid for Phase II Auction funds. The ARC also provided information about broadband deployment in Alaska, including information about Alaska’s current lack of affordable middle mile infrastructure. We provided the attached power point presentation.

The ARC explained the fact that virtually all of the last mile of Alaskan ILEC networks are broadband capable, and that the sole missing component in connecting Remote Alaska to the digital age is adequate and/or affordable middle mile infrastructure. The ARC further explained that many areas of Remote Alaska continue to lack access to terrestrial middle mile, and that even those areas with some access to middle mile often cannot afford the high price of transport. Alaska’s extremely high costs of construction and maintenance mean that the ARC

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members and other Alaska carriers will have difficulty maintaining existing voice services, let alone deploying broadband. The Commission, by reducing overall high-cost support funding for Alaskan companies coupled with adding new requirements for companies to provide high-speed broadband, is asking Alaska carriers to “do a lot more with less.”

In the ARC’s understanding, the RAF is currently conceived as a direct consumer subsidy to provide satellite service in those areas where extending last mile service cannot be justified. The ARC understands that policy for some areas of the country, but it is not a solution for Alaska. Ms. Heim and Mr. Burke also pointed out that Alaska’s latitude, line-of-sight issues and extreme weather can interfere with obtaining a robust satellite signal, and that the quality of service available via satellite will never match the reliability and speed of a terrestrial connection. The ARC advocated that a portion of the RAF instead be used to create an Alaska set-aside to overcome the lack of robust middle mile in Alaska.

Doug Neal provided anecdotal information concerning consumer subsidy satellite programs’ lack of success in OTZ’s rural Alaska service area. Mr. Neal specifically discussed the loss of customers that OTZ initially experienced due to a consumer satellite program, and explained that OTZ has begun to see customers returning because of the satellite programs’ lack of available technical support. Mr. Neal communicated his belief that federal monies would be better spent ensuring providers have access to lasting middle-mile infrastructure in rural Alaska than solely providing satellite subsidies.

We also discussed the Tribal Mobility Fund. The ARC explained the significant financial barriers facing smaller carriers seeking to participate in the Tribal Mobility Reverse Auction, including the Letter of Credit requirement and substantial default penalties. The ARC members indicated that their lenders are either not issuing Letters of Credit (RUS), or are doing so under very limited cases (CoBank). The risk of incurring default penalties discourages small companies from making the investment in auction participation.

The ARC members also voiced their concern that the Commission is considering changing its definition of Alaska as 100% Tribal. The ARC emphasized its position that, when determining eligibility for Tribal Mobility funding, the Commission should use the definition of Tribal lands set forth in the *Transformation Order*, which includes “Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85. Stat. 688).”<sup>1</sup>

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<sup>1</sup> See *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-a92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011) at para. 481 (“*Transformation Order*”) at P. 125, n. 197. See also 47 C.F.R. §§ 1.2100 and 54.400(e) (defining tribal lands to include “Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act”).

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The ARC suggested that extending Tribal bidding credits to carriers such as member-owned cooperatives that serve majority Tribal areas would be an appropriate way to ensure that Tribal Mobility Funds reach the consumers who need them most. The ARC also raised the idea of an Alaska-specific Tribal Mobility bidding credit in the upcoming Phase II Auction. The ARC made clear that without some form of Alaska or Tribal credit, it is very likely that few Alaska parties will bid for or receive any Tribal Mobility funds. Without these funds, access to affordable middle mile in Alaska will not progress beyond its current limited state.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter and our attachment are being filed via ECFS. If you have any questions or I may be of assistance, please do not hesitate to contact me.

Regards,

Shannon M. Heim  
Senior Attorney

Enclosure

cc: Rebekah Goodheart  
Priscilla Delgado Argeris  
Nicholas Degani