



SHANNON M. HEIM  
(612) 340-8899  
FAX (612) 340-8800  
heim.shannon@dorsey.com

September 19, 2013

***Ex Parte Communication***

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

Re: Commission Review of the AEE Petition for Reconsideration and Application for Review

Dear Ms. Dortch,

The Alaska Rural Coalition<sup>1</sup> (“ARC”) would like to take this opportunity to provide comments regarding the Petition for Reconsideration and Application for Review filed by Adak Eagle Enterprises and Windy City Cellular (collectively “AEE”).<sup>2</sup> The Wireline Competition and Wireless Bureaus denied AEE’s Petition, finding that AEE had not shown good cause for a Waiver. The ARC shares some of the concerns expressed by AEE and believes that the Bureau’s actions may have far reaching implications for other small carriers serving Remote areas of Alaska. We respectfully request the Commission carefully consider the issues raised by AEE.

Specifically, the ARC is concerned by the Order’s suggestion that the wireline service currently provided by AEE could be replicated/replaced by GCI’s wireless system, a position that is in conflict with the Commission’s standards established by the *Transformation Order*. The Commission committed to granting waivers where failure to do so puts “consumers at risk of losing voice services, with no alternative terrestrial providers available to provide voice telephony service.”<sup>3</sup>

The ARC is deeply concerned about the precedent set by the denial of AEE’s Waiver based at least in part on the substitution of a wireless service that does not cover the entire study area.

---

<sup>1</sup> The ARC is composed of Arctic Slope Telephone Association Cooperative, Inc.; Bettles Telephone, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Circle Telephone & Electric, LLC; Cordova Telephone Cooperative, Inc.; Copper Valley Telephone Cooperative, Inc.; City of Ketchikan, Ketchikan Public Utilities; Matanuska Telephone Association, Inc.; OTZ Telephone Cooperative, Inc.; Interior Telephone Company; Mukluk Telephone Company, Inc.; Alaska Telephone Company; North Country Telephone Inc.; Nushagak Electric and Telephone Company, Inc.; and The Summit Telephone and Telegraph Company, Inc.

<sup>2</sup> See *Adak Eagle Enterprises, LLC and Windy City Cellular, LLC, Petitions for Waiver of Certain High-Cost Universal Service Rules, Order, 28 FCC Rcd 10194 (2013)* (“Order”).

<sup>3</sup> *Transformation Order* at para. 540.

September 19, 2013

Page 2

We note GCI has not made a firm commitment to provide equivalent landline service and where the provision of 911 service remains unresolved if AEE is no longer available to provide service due to inadequate high cost support. The implications for other Alaska carriers are significant and alarming given the slippery slope of applying the Commission's Waiver provisions. The Commission explicitly held that terrestrial service must be preserved and not disregarded in favor of wireless service.

AEE made substantial cutbacks to its operating budget in response to the Bureaus' concerns, but those cuts were judged inadequate. The ability of AEE to pay back its debts to RUS may be negatively impacted by the denial of its Waiver Petition. The Bureau appears to be weighing the quantitative value of CAF fund savings versus the risk of default on RUS loans and disregarding the latter. The potential that other carriers serving the remotest, highest cost areas of the nation will be similarly judged if and when they seek a waiver sets an unfortunate precedent. At a minimum, the gravity of the decision warrants full consideration by the Commission.

The *Transformation Order*<sup>4</sup> allows a path for carriers to seek a waiver of the Rules. The Commission has received substantial criticism about the length and expense involved in obtaining a waiver.<sup>5</sup> The denial of AEE's Waiver Petition underscores the serious consequences of the process and the potential damage to small, remote communities if local service providers lose the funding necessary to operate. The ARC believes that Commission scrutiny of the denial of AEE's Waiver provides an excellent opportunity for the Commission to reevaluate the Waiver process and assess whether or not the current application of the Waiver rules fulfill the mandate of the *Transformation Order*.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this is being filed via ECFS. If

---

<sup>4</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").*

<sup>5</sup> See, e.g., *Comments of the Regulatory Commission of Alaska, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208 (Jan. 18, 2012) at 7-8* ("For this reason, we are concerned that the decisional timeline for waivers not be unnecessarily lengthy or the process unduly complicated. To the extent the reason a waiver is needed is systemic (i.e., the lack of terrestrial backhaul coupled with insufficient satellite capacity), the RCA requests that the FCC accept a waiver request from the RCA on behalf of impacted areas and/or review such waiver requests on a "fast track" timeline of six months or less and apply the waiver to all impacted carriers."); *Alaska Rural Coalition Petition for Reconsideration, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208 (Dec. 29, 2011) at 15* ("The administrative and financial burden of meeting that waiver standard when the cost of terrestrial backhaul or lack of adequate capacity threatens to makes it impossible to comply with the broadband benchmark is a remedy as painful to the carrier as the problem.").

September 19, 2013  
Page 3

you have any questions or I may be of assistance, please do not hesitate to contact me.

Regards,

Shannon M. Heim