

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

In the Matter of)	
)	
Modernizing the E-rate Program for Schools and Libraries)	WC Docket No. 13-184
)	

Reply Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”)¹ hereby submits these reply comments in response to the Notice of Proposed Rulemaking (“NPRM”)² issued by the Commission in the above-captioned proceeding. In these reply comments, ACS echoes the comments of other Alaskans for the Commission to provide sufficient support for middle mile infrastructure and services to sustain the broadband services for schools and libraries that the Commission envisions. Today, one of the greatest barriers to broadband deployment in Alaska is a lack of middle mile bandwidth necessary to connect customers to the nearest Internet exchange points, which are located in the lower 48 states, in Washington and Oregon. Such middle mile bandwidth is expensive to deploy and operate, particularly in remote areas of Alaska outside of the population centers of Anchorage, Fairbanks, and Juneau. In addition, for much of southwest Alaska, one provider maintains monopoly control of the only terrestrial transport facility available to serve schools, libraries, and rural health care providers, enabling it to burden these customers – and, by extension, the E-rate mechanism – with unregulated monopoly rates despite the public funding used to construct these facilities.

¹ In these comments, “Alaska Communications Systems” signifies the operating subsidiaries of Alaska Communications Systems Group, Inc. that provide services supported by the schools and libraries universal service support mechanism (“E-rate”), which include the incumbent local exchange carriers (“ILECs”) ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC, as well as the additional operating subsidiaries, ACS Wireless, Inc., ACS Long Distance, Inc., and ACS Internet, Inc.

² *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Notice of Proposed Rulemaking, FCC 13-100, 28 FCC Rcd 11304 (2013) (“NPRM”).

With the Wireline Competition Bureau (“Bureau”) proposing reductions in ACS’s high cost support under Phase II of its Connect America Fund (“CAF”) implementation, the need for middle mile funding in Alaska is greater than ever, if the goals of the Commission’s E-rate reforms, and the broader ConnectED initiative, are to be achieved in Alaska.

A. ACS Agrees that Middle Mile Investment is Essential to Achieve the Commission’s E-rate Goals in Alaska

The Notice seeks comment on whether the Commission should adopt “the SETDA target of ensuring that schools have 100 Mbps per 1,000 users increasing to 1 Gbps per 1,000 users.”³ ACS agrees that schools and libraries in Alaska need robust, reliable broadband Internet access to best deliver a 21st century education and prepare the next generation of Alaskans for life in the global, interconnected world they will inherit. ACS agrees with the Alaska Rural Coalition, General Communication, Inc. (“GCI”), and the State of Alaska Department of Education and Early Development and the Alaska State Library (“Alaska EED”) that robust broadband Internet access is critical to permit schools and libraries in many areas of the state to best fulfill their educational missions. It fuels distance learning services, brings vast libraries of cutting edge knowledge to the classroom, and enables vivid first-hand experiences that would have seemed like the stuff of science fiction only a few decades ago.⁴

Unfortunately, schools and libraries in remote areas of Alaska, where broadband is most needed, are also often those that are most difficult to serve with the high bandwidth, low-latency broadband Internet access that distance learning requires. ACS agrees with the Alaska Rural Coalition that one of the most significant barriers to expanding broadband deployment in Alaska is a dearth of affordable middle mile infrastructure necessary to traverse thousands of miles from

³ Notice at ¶ 23.

⁴ See, e.g., Alaska Rural Coalition Comments at 6; GCI Comments at 1-2; Alaska EED at 1.

remote areas of Alaska to the nearest Internet exchange points in the states of Washington and Oregon.⁵ Indeed, ACS has worked feverishly over the past three years to adjust the Bureau's proposed CAF Phase II high-cost support mechanism so that it accurately reflects the costs of delivering broadband in Alaska, and provides sufficient support to achieve the Commission's broadband deployment goals while keeping voice and broadband available and affordable. So far, those efforts have yielded limited progress, with the Bureau's illustrative results based on the most recent versions of the Connect America Cost Model ("CAM") continuing to forecast substantial reductions in high-cost support from today's levels, despite large new investments in broadband infrastructure required as a condition of accepting the support.

As a result, while the SEDTA goal of 100 Mbps per 1,000 users may be attainable (albeit ambitious) in many parts of the country, it will require extraordinary infrastructure investment in Alaska. As the Alaska Rural Coalition points out,⁶ the constrained capacity, high cost, and long latency times inherent in satellite-based transport makes that technology inadequate for distance learning and other low-latency, high bandwidth services – that is, the very applications that a 100 Mbps connection should enable. It is true, in response to the Commission's question, that there are some remote areas of Alaska where achievement of the SEDTA goals is not economically feasible and, as pointed out by the Alaska EED, it is likely to remain economically infeasible for some time.⁷ Nevertheless, it is important for the Commission to support the efforts of the State of Alaska and its telecommunications carriers to bridge this gap, delivering progressively better educational resources to students throughout the state over time.

⁵ Alaska Rural Coalition Comments at 7 (citing \$610 million estimate of required investment in middle mile infrastructure).

⁶ Alaska Rural Coalition Comments at 8; *see also* Notice at ¶¶ 26, 68.

⁷ Notice at ¶ 26; Alaska EED Comments at 3.

To support these efforts, the Commission should allocate substantial support to construction of middle mile terrestrial infrastructure to enable remote Alaska to connect to Internet exchange points in the lower 48 states. By doing so, the Commission would advance the goals for broadband availability it has articulated both in the context of high-cost and E-rate.⁸ The Alaska Rural Coalition’s proposal to “direct[] significant funds to buildout of terrestrial fiber in the state,” in coordination with complementary projects funded with high-cost support, is crucial to ensure that Alaska’s schools and libraries are not left behind as the broadband age unfolds. ACS therefore supports the Alaska Rural Coalition’s proposals to (1) create an annual RAF-funded subsidy for Alaska middle-mile infrastructure;⁹ and (2) to give rural schools and libraries in Alaska additional E-rate support to reflect the extraordinary challenges of serving them.¹⁰

In contrast, GCI’s proposal to create a “Priority 0” for data transport services from rural communities to fiber-based aggregation points in urbanized centers is little more than a thinly-

⁸ Alaska Rural Coalition Comments at 9 (“[D]eploying fiber necessary to connect schools and libraries will also put fiber in place necessary to connect homes and businesses to high-speed broadband.”)

⁹ Alaska Rural Coalition Comments at 9 n.26; *Connect America Fund*, WC Docket No. 10-90, Comments of the Alaska Rural Coalition Concerning the Remote Areas Fund (filed Feb. 19, 2013), at 9-10 (the “Commission [should] delegate \$25 million per year for at least five years to construct middle mile infrastructure in Alaska The ARC additionally requests that the Commission set aside an additional \$10 million for carriers to purchase access to existing middle mile infrastructure priced above urban rates. Only dedicated funding will move Alaska toward parity with the rest of the nation. Failure to make real progress will leave Alaska behind the nation in the short term and extinguish any hope that Alaska will catch up over the long term.”).

¹⁰ Alaska Rural Coalition Comments at 7. Taking these steps would also relieve anticipated pressure on the Commission’s yet-to-launch Remote Areas Fund (“RAF”). Today, ACS estimates that it would require over \$100 million – the entire RAF budget – to deploy terrestrial broadband to the likely RAF locations served by ACS, with the majority of this for middle-mile upgrades. That figures does not even account for customers in RAF areas of Alaska served by other carriers, let alone any RAF customers in other parts of the nation.

disguised attempt to divert even more E-rate support – in addition to that needed to fund its artificially-inflated, above-cost, unregulated monopoly rates for TERRA-SW services discussed below – from an E-rate mechanism that is already oversubscribed, all in order to cross-subsidize unrelated services and infrastructure buildout.¹¹

B. The Commission Should Exclude CETCs that Receive E-rate Support from Its Definition of an “Unsubsidized Competitor” in Alaska

For purposes of distributing CAF Phase I and Phase II high cost support, the Commission has determined that areas served by an “unsubsidized competitor” should be ineligible for support.¹² Under the Commission’s rules, an “unsubsidized competitor” is “a facilities-based provider of residential fixed voice and broadband service that does not receive high-cost support.”¹³

ACS agrees with the Alaska Rural Coalition that the Commission should amend this definition so that, in Alaska, a CETC that receives E-rate support is excluded from the definition of an “unsubsidized competitor.”¹⁴ The purpose of the rule is to ensure that federal universal service support is not directed to areas where a competitor has demonstrated an ability to enter the market on an unsupported basis. Yet, federal high cost support is but one of many subsidies that a broadband Internet access provider may receive. For example, in Alaska, the state’s largest CETC, GCI, maintains monopoly control over the only terrestrial middle mile transport facility serving large portions of western Alaska. Despite receiving \$88 million in federal grant and loan funding from the Rural Utilities Service’s Broadband Initiatives Program (“BIP”) to

¹¹ GCI Comments at 8-10.

¹² *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, at ¶ 24.

¹³ 47 C.F.R. § 47.5.

¹⁴ Alaska Rural Coalition Comments at 13.

construct this facility, GCI now refuses to abide by the BIP nondiscrimination and interconnection obligations of its federal award.¹⁵ Rather, GCI is engaged in a classic price squeeze, under which GCI offers affordable residential broadband at prices starting at \$24.99/month,¹⁶ but limits competitors to tiny amounts of an essential wholesale input – capacity on TERRA-SW – at exorbitant wholesale prices that exceed those for satellite services and make it impossible to compete at the retail level.

Having thus established its unregulated monopoly position, GCI today receives further support from the E-rate and rural health care mechanisms for services it provides – at unregulated monopoly rates – using this facility. GCI is thus able to price its services at or above the cost of satellite-based services for schools, libraries, and rural health care providers, who in turn can access federal universal service support funding to defray the bulk of that cost. GCI has candidly explained that it uses such monopoly pricing to subsidize its construction of additional monopoly facilities, stating in its comments that E-rate and Rural Health Care funding have “spillover” effects that allow its TERRA facilities to be built and expanded to additional regions of the state.¹⁷ Indeed, GCI has been even more direct in the past, stating that “[f]urther deployment of modern wireless and broadband networks to additional currently unserved communities in rural Alaska . . . depends upon the provision of services to key anchor telemedicine and distance learning customers that are supported by the various programs of the

¹⁵ See Broadband Initiatives Program, Notice of Funds Availability, 74 Fed Reg. 33104, 33110-11 (2009).

¹⁶ News Release, “GCI Announces Plan to Deploy Terrestrial Broadband Internet Service in 65 Remote Rural Communities,” Apr. 16, 2012 (available at: <http://www.gci.com/terra/terra-news-releases#section-5>).

¹⁷ GCI Comments at 7.

Universal Service Fund as well as continued efforts to leverage this funding to secure other private funding sources.”¹⁸

The Commission should no more classify GCI as an “unsubsidized competitor” under these circumstances – a CETC that cross subsidizes residential broadband Internet access by precluding competitive entry and extracting inflated E-rate and rural health care support payments from federal mechanisms – than it should in the case of a provider that more directly receives federal high cost support. In neither case has the competitor demonstrated that its service area can sustain residential broadband on an unsupported basis. To withdraw high cost support under such circumstances would place residential customers at risk, while burdening the E-rate mechanism with the cost of funding unrelated facilities deployment elsewhere in the state.

C. The Commission Should Take Steps to Introduce Transparency and Make Service Providers and Applicants More Accountable for Their Use of E-rate Funds

Even with price as the primary factor in evaluating bids for E-rate services, the market in southwest Alaska is failing. Market checks are largely absent, with GCI often the only bidder that can offer terrestrial services, and E-rate applicants largely insulated from the effects of these prices because E-rate covers up to 90 percent of the cost. Schools and libraries, understandably, prefer terrestrial service, and will find ways to prioritize services that use TERRA-SW over satellite-based services, even at a higher cost. Thus, the publicly-funded TERRA-SW network, paradoxically, carries the risk that its availability would actually create market conditions that *increase* the cost of broadband to schools and libraries in areas it serves, a result clearly at odds with the Commission’s public policy goals. ACS urges the Commission to take care that, if it

¹⁸ Letter from Megan Delany, GCI, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208 (filed July 30, 2012), at 2-3.

adopts its proposal to increase the discount rate or amount of E-rate funds available to schools and libraries in remote rural areas,¹⁹ it does not inadvertently worsen this effect by further muting the economic signals such schools and libraries receive from bidders that face little or no competition for their services.

ACS believes that, at a minimum, the Commission should amend its rules to cap E-rate support, where terrestrial and satellite-based alternatives are both available at the start of a contract for E-rate service, at the *lower* of the cost-based terrestrial rate or the satellite rate. ACS believes that such a rule would place reasonable, commonsense limits on E-rate funding levels, ensuring that the fund is not burdened by an applicant's election to select a more costly technology over a cheaper alternative available in the market. The Commission's rural health care funding mechanism already incorporates a similar rule, which caps funding for satellite services at the terrestrial rate.²⁰ With the advent of terrestrial services that can now be more costly than satellite, the Commission should update its rule to limit funding to the cost of whichever is the lower-cost technology, and expand it to cover E-rate supported services in addition to those funded through the rural health care support mechanism.

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¹⁹ Notice at ¶ 133.

²⁰ 47 C.F.R. § 54.609(d). ACS has proposed similar amendments to that rule, *see Rural Health Care Support Mechanism*, WC Docket No. 02-60, Letter from Karen Brinkman, Counsel for ACS, to Marlene H. Dortch, Secretary (filed Sept. 24, 2012) at 1.

For the foregoing reasons, ACS hereby requests that the Commission (1) support middle-mile investment in Alaska through additional support for infrastructure construction; (2) exclude CETCs that receive E-rate support from the definition of an “unsubsidized competitor” in Alaska; and (3) create additional transparency and accountability for the use of E-rate support in areas where there is insufficient competition among E-rate service providers.

Respectfully submitted,

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