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Ex Parte Notice

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

Re: *Connect America Fund*, WC Docket No. 10-90

Dear Ms. Dortch,

On November 13, 2013, Doug Neal from OTZ Telephone Cooperative, Susan Hardenbergh from AKT and I met with Dan Alvarez, Chairman Wheeler's Legal Advisor and the following Wireline Competition Bureau staff: Joe Sorresso, Chris Koves, Victoria Goldberg, Katie Hinton, Eric Ralph and Deena Shetler. Later that afternoon we met with Jane Jackson and Patricia Robbins from the Wireless Telecommunication Bureau.

Our conversation focused on the financial hardship facing OTZ Telephone Cooperative (local telephone) and its subsidiary, OTZ Telecommunications (wireless), collectively OTZ, following the *Transformation Order* reforms. Included with this letter is the presentation that guided the conversation as **Attachment A**. OTZ also provided a copy of its Annual Report to illustrate the tribal nature of its community and business. It is included as **Attachment B**.

OTZ is a member-owned cooperative serving Kotzebue (population 3,237), ten small native villages and the Red Dog Mine. This relatively low population base is spread over a service territory the size of Indiana. None of the villages served by OTZ are on the road system which makes them accessible only by boat, airplane or snow machine, depending on the season. OTZ's Board of Directors, employees and member-owners are overwhelmingly Inupiat Eskimo. The significant tribal composition of the area makes OTZ a tribal carrier in every sense, although current FCC rules preclude OTZ from taking advantage of tribal benefits including bidding credits.

The *Transformation Order* reformed the allocation of high cost support.[1] Rural carriers have expressed uniform concern with falling revenues from these reforms to high cost support.[2] OTZ and other Alaska carriers have felt the impact of dwindling high cost support more acutely than most carriers given the great needs of Alaska, particularly in remote areas, for financial assistance to provide telecommunications services to geographically diverse areas with low population density.

The cuts in high cost support have combined to place OTZ in a financially precarious position. Doug Neal shared photos of the city building in the Village of Shungnak where OTZ's local switch is housed. The building is literally falling down, but there is no funding to build a new facility or relocate the equipment. OTZ provided the Commission a summary graph in its presentation representing OTZ's consolidated operating data. OTZ provided further financial data supporting the graph and it is included as **Attachment C**. According to the data provided by OTZ, by 2016 it will be operating at a net loss and unable to continue to provide service.

Due to the diminishing prospect of a reliable revenue stream, OTZ had to refuse a substantial RUS loan to build out its wireless service to the remaining villages in its service area. Mr. Neal's letter to RUS is included as **Attachment D**. The imminent loss of Identical Support (phase down is scheduled to begin in Alaska in 2014) coupled with

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[1] *See* Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for our Future, 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. 01-92, 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) ("*Transformation Order*").

[2] *See, e.g., Comments of Alaska Rural Coalition in the matter of Connect America Fund,* WC Docket No. 10-90, 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, before the FCC (Jan. 18, 2012) ("*ARC USF Comments*"); *Comments of the Nebraska Rural Independent Companies In Response to Wireline Competition Bureau Request For Comment on Model Design and Data Inputs for Phase II of the Connect America Fund*, in the matter of Connect America Fund, WC Docket No. 10-90, Docket No. 05- 337, before the FCC (July 9, 2012)("*Nebraska Comments*"); *Comments of Alaska Communications Systems, Inc., in the matter of Connect America Fund*, WC Docket No. 10-90 (Mar. 11, 2013) at 3-4 ("*ACS Comments*") ("ACS, like other price cap carriers, would face significant increases in its costs of service to deploy, operate, and maintain the facilities necessary to deliver broadband meeting the Commission's CAF Phase II standards throughout its service area covered by CAF Phase II support. ACS would be unable to meet these service commitments based on its current level of legacy support, let alone the sharply reduced levels of support currently suggested by recent CACM model results.").

the unlikelihood that OTZ, or any small Alaska carrier, will obtain support from the Mobility Phase II or Tribal Mobility Phase II process made it impossible for OTZ to commit to a loan without a predictable means of repaying it.

We discussed the decreasing high cost revenue with the Wireline Competition Bureau. There was a robust give and take to quantify OTZ's decrease in revenue attributable to Intercarrier Compensation. Our presentation included a graph demonstrating that the majority of funding available to OTZ is controlled by the FCC. Eric Ralph, the Wireline Competition Bureau's Chief Economist suggested that specific data supporting that graph be forwarded to Joe Sorresso. We will file a separate ex parte detailing that information.

In our discussion with the Wireless Telecommunications Bureau, we emphasized the important role OTZ plays in the communities in which it provides service. Villages depend on OTZ for critical technical support and maintenance of wireline and broadband services. OTZ's wireless service provides a 20-mile umbrella around the villages it serves, which represents a critical safety net given the harsh climate and lack of roads connecting the villages. We discussed the inability of OTZ and other small Alaska carriers to capture support in the Mobility Phase II or Tribal Mobility Auctions due to the barrier of a Letter of Credit and the inherent nature of a reverse auction to preclude the highest cost areas with low populations. We also discussed a potential waiver of the phase down of Identical Support for OTZ until replacement funding mechanisms are better established.

Without Commission intervention, Alaska consumers in OTZ's service area will face significantly reduced service. OTZ discussed several opportunities for regulatory relief. First, we suggested that allowing companies to recover increasing corporate expenses attributable to regulatory compliance. Second, delaying the phase down of identical support in Alaska would provide a critical reprieve as other sources of mobility funding are assessed by companies and regulators. Third, OTZ would benefit from a delay in the phase down of access charges and building inflation into the calculation. Next, OTZ expressed support for the Alaska carve out advocated by the Alaska Rural Coalition (from the Remote Areas Fund) and by GCI (from the Mobility Fund). Without an infusion of capital into Alaska, the networks relied upon by all Alaskans will suffer from inadequate support and service quality and availability will diminish. Finally, OTZ is precluded from participating in the reverse auction mechanism intended to distribute needed support for wireless businesses in high cost areas. To participate in either the Mobility Phase II or Tribal Mobility Phase I or II auctions, carriers must procure and produce an irrevocable Letter of Credit.[3] OTZ explained that as a RUS borrower, it is

[3] *Transformation Order* at para. 444.

impossible for it to obtain a Letter of Credit to participate in the process. OTZ also requested support for an expansion of the tribal bidding credit to include cooperatives like OTZ who are majority owned and operated by native Alaskans. The creation of an Alaska bidding credit would also substantially improve the likelihood of Alaska carriers participating in the Mobility auctions and obtaining the support they desperately need.

We also discussed the issue of how to characterize an unsubsidized competitor in Alaska. Carriers serving remote, high cost areas in Alaska can ill afford a further reduction of support. It is critical that the Commission take a broad view of what constitutes a subsidy when determining whether an area is served by an unsubsidized competitor. OTZ is the only provider of landline and broadband capable services in the villages. To deny OTZ support because GCI will not, after phase out of identical support, be receiving this specific type of universal service funding is to deny the larger reality: GCI receives millions of dollars of support through E-rate and Rural Healthcare and freely admits to cross-subsidizing other projects. To deny OTZ critical support to serve rural villages while GCI continues to receive extensive support for service to Kotzebue's anchor institutions would expedite the financial collapse of OTZ that we discussed.

OTZ appreciates the opportunity to discuss its issues with the staff. We remain optimistic that it is not too late to slow down the process and make sure that small, rural telecommunications carriers receive critical support. We look forward to working with the Commission to address these issues.

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

Regards,

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OTZ Telecommunications

c: Dan Alvarez
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