

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
)	
Request for Review by Yukon-Kuskokwim)	WC Docket No. 02-60
Health Corporation of Decision of Universal)	
Services Administrator)	
)	
HCP 10182, 10188, 10197, 10214, 10217)	

REPLY COMMENTS BY YUKON-KUSKOKWIM HEALTH CORPORATION

The record in this proceeding supports the expeditious grant of the Request for Review filed by the Yukon-Kuskokwim Health Corporation (“YKHC”).¹

As YKHC explained in its Request for Review, the decision of the Universal Service Administrative Company (“USAC”) to (1) initially revoke the evergreen status of the 2011 Agreement for USF-Eligible Telecommunications Services between YKHC and GCI Communication Corp. (“GCI”) for five YKHC facilities, and (2) subsequently deny eligible service funding for four of these five facilities was in error because the increases in bandwidth that were the subject of USAC’s actions did not constitute a “cardinal change” to the YKHC-GCI Contract and therefore should have been approved as a matter of law.

USAC’s contention that YKHC’s bandwidth upgrades *automatically* fell outside of the scope of the bidding process and the YKHC-GCI Contract is contrary to long-standing Commission rules and orders that require a fact-specific analysis of whether the requested

¹ See generally Request for Review by Yukon-Kuskokwim Health Corporation, WC Docket No. 02-60 (filed October 28, 2013).

upgrade constituted a cardinal change.² Here, there is no question that potential bidders were reasonably on notice that YKHC's bandwidth needs would vary over time, and that the increases in bandwidth sought by YKHC clearly fell within the scope of the YKHC-GCI Contract.

GCI, a provider of telecommunications and Internet services in rural Alaska, was the only party to file comments in response to YKHC's Request for Review, and its submission supports YKHC's position.³ Indeed, GCI's filing points out that USAC has begun taking similar action with respect to bandwidth upgrades by other Alaska rural health care providers,⁴ and if left undisturbed will "increase the costs of providing broadband for telemedicine by effectively preventing HCPs from benefitting from volume and term discounts often included in multi-year contracts."⁵ In short, absent appropriate corrective action by the Commission, USAC's erroneous decision will adversely affect not only YKHC, but other rural health care providers that rely on the Rural Health Care Program to provide affordable and high quality health care to the residents of Alaska.

² See *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration in CC Docket No. 96-45, 13 FCC Rcd. 5318, 5425-26, ¶¶ 224-29 (1997) (and cases cited therein); see also *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 97-21 and 96-45, Sixth Order on Reconsideration in CC Docket No. 97-21 and Fifteenth Order on Reconsideration in CC Docket No. 96-45, 14 FCC Rcd. 18756, ¶ 59 (1999) (reaffirming applicability of cardinal change doctrine to Rural Health Care program); *Rural Health Care Mechanism*, WC Docket No. 02-60, 27 FCC Rcd. 16678, 16791, ¶ 261 (2012) (reaffirming and extending cardinal change doctrine to Healthcare Connect Fund).

³ Comments of GCI, WC Docket No. 02-60 (Dec. 5, 2013).

⁴ *Id.* at 1.

⁵ *Id.* at 2.

For these reasons and others, the Commission should act expeditiously and direct USAC to restore evergreen status to the YKHC-GCI Contract for the facilities at issue and approve the funding for the bandwidth increases that should have been awarded.

Respectfully submitted,

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