

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Petitions for Waiver of Universal Service Filing Deadlines)	WC Docket No. 08-71
_____)	

**ALASKA RURAL COALITION’S COMMENTS SUPPORTING
MTA COMMUNICATIONS, LLC D/B/A MTA WIRELESS/MATANUSKA-KENAI, INC.
AND CORDOVA WIRELESS COMMUNICATIONS, LLC
PETITIONS FOR WAIVER**

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I. Introduction.

The Alaska Rural Coalition¹ (“ARC”) files Comments in this proceeding pursuant to the *Public Notice* issued by the Federal Communications Commission (“Commission”) on MTA Communications, LLC d/b/a MTA Wireless/Matanuska-Kenai, Inc. (“MTAW”) and Cordova Wireless Communications, LLC (“CWC”)’s Petitions for Waiver of a High Cost Universal Service Filing Deadline (the “Petitions”).² The ARC fully supports the Petitions. The minor lapses in compliance experienced by MTAW and CWC are indicative of the increasing regulatory burdens on small, rural carriers triggered by the *Transformation Order* and do not represent sufficient reason to deny these carriers high-cost support.³

Small carriers such as MTAW, CWC and the ARC members are being asked to achieve new performance standards while facing substantial reductions in high-cost support.⁴ These

¹ 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.

² See Federal Communications Commission, Public Notice, *Wireline Competition Bureau Seeks Comment on MTA Communications, LLC, d/b/a MTA Wireless/Matanuska-Kenai, Inc. and Cordova Wireless Communications, LLC Petitions for Waiver of a High-Cost Universal Service Filing Deadline*, WC Docket No. 08-71 (Nov. 18, 2013) (“*Public Notice*”).

³ 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*”).

⁴ See, e.g., *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

carriers' budgets and staff are stretched thin by these changes, and it is appropriate for the Commission to maintain flexibility as carriers adapt to a new regulatory environment.⁵ It will not serve the public interest to deny support to MTAW and CWC because of administrative errors that have since been rectified and are unlikely to be repeated.

The ARC membership consists of essentially all of the Rate of Return incumbent rural local exchange carriers ("RLECs") in Alaska, who share unified interests regarding the impacts of universal service reform on the state. CWC and MTAW are members of the ARC. These carriers depend on high-cost support to maintain quality, affordable service to their rural customers, and loss of such support could quickly result in loss of services to those customers.

MTAW and CWC each inadvertently failed to submit line count information to the Universal Service Administrative Company ("USAC") by the Commission's deadline for filing such information.⁶ Both companies provided detailed explanations regarding the failure to file.⁷

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.”).

⁵ Shawn Buckley, *FCC Goes Public with Its Ambitious Connect America Fund*, Fierce Telecom (Nov. 21, 2011), <http://www.fiercetelecom.com/story/fcc-goes-public-its-ambitious-connect-america-fund/2011-11-21> (“It is essential that the order and the final outcome of the further notice of proposed rulemaking eliminate lingering regulatory uncertainty so that small rural carriers can attract capital and operate high-quality rural broadband networks[.] . . . That uncertainty has a near and long-term effect on how rural service providers can expand broadband to more of their users.”); *see also* Ross Boettcher, *Shift for Rural Telecoms*, OMAHA WORLD-HERALD, Nov. 22, 2011, *available at* <http://www.omaha.com/article/20111102/MONEY/711029925> (“U.S. Rep. Lee Terry, vice chairman of the Energy and Commerce Committee's subcommittee on Communications, Technology and the Internet, said he realizes the lack of predictability is an issue.”).

⁶ *See Petition of MTA Communications, LLC d/b/a MTA Wireless/Matanuska-Kenai, Inc., for Waiver of Sections 54.307 and 54.802(A) of the Commission's Rules*, WC Docket No. 08-71, CC Docket No. 96-45 (Nov. 6, 2013) (“MTAW Petition”) at 1; *Cordova Wireless Communications, LLC, Petition for Waiver of 47 C.F.R. § 54.307(c)*, WC Docket No. 08-71, CC Docket No. 96-45 (Nov. 12, 2013) (“CWC Petition”) at 2.

The ARC believes the common element in the missed filing was the extremely limited regulatory staffs to handle the increasingly burdensome compliance requirements associated with a carrier's receipt of high-cost support. Both CWC and MTAW promptly addressed these errors by filing their line count data with USAC within days of their missed deadlines.⁸ Both companies have implemented significant measures to ensure that these mistakes are not repeated.⁹ Forcing these carriers to forego universal service support for the first quarter of 2014 because of these administrative errors would be a remedy far out of proportion with the severity of the errors, and would have devastating effects for MTAW, CWC and their customers. Without first-quarter 2014 universal service support, CWC and MTAW may have to severely curtail operations and/or suspend services until support is reinstated.¹⁰ This outcome will not serve the public interest.

Telecommunications services are especially critical to customers in Remote Alaska, where distance learning, teleworking, telehealthcare, and videoconferencing can play a vital role in maintaining public safety and improving village economies and overall quality of life.¹¹ In

⁷ *MTAW Petition* at 3; *CWC Petition* at 3.

⁸ *MTAW Petition* at 1; *CWC Petition* at 3.

⁹ *MTAW Petition* at 4; *CWC Petition* at 3.

¹⁰ *MTAW Petition* at 6; *CWC Petition* at 8.

¹¹ *See Request for Review by Cordova Wireless Communications, LLC of a Decision of Universal Service Administrator*, CC Docket No. 96-45, WC Docket No. 05-337 (July 5, 2013) ("*CWC Request for Review*") at 8-9 ("[T]he service [Cordova] provides is vital to the health and safety of the many hikers, fisherman and others who rely on wireless service as a lifeline to potential assistance in emergencies. Public safety and homeland security interests are highly dependent on the service provided by Cordova."); *see also Comments of the Alaska Rural Coalition*, GN Docket No. 12-228, before the FCC (Sept. 20, 2012) ("*ARC Broadband Standards Comments*") at 3 ("The remote nature of these unserved locations in Alaska means that their residents have the greatest need for advanced telecommunications, especially regarding vital services like emergency response, telemedicine and distance learning."); *see, e.g., Kim Severson, Digital Age is Slow To Arrive in Rural America*, N.Y. Times, (February 17, 2011), available at http://www.nytimes.com/2011/02/18/us/18broadband.html?pagewanted=all&_moc.semit ("In rural America, only 60 percent of households use broadband Internet service."); *see also Alaska*

light of the importance of the services that MTAW and CWC provide, the ARC encourages the Commission to focus on its goal of universal service as it considers whether to grant the Petitions.¹² Compromising services in Remote Alaska because of carrier administrative error will not serve the Commission's goals.

II. Granting the Petitions Is Necessary and Will Serve the Public Interest.

The Commission may waive its rules for good cause, specifically, where the particular facts at issue make strict compliance with the rule inconsistent with the public interest.¹³ Good cause exists to grant both MTAW and CWC's Petitions. Granting the Petitions will cause no harm, while denying the Petitions has the potential to cause undue hardship by damaging the availability of telecommunications services in Remote Alaska.¹⁴ If the Commission does not grant the Petitions, MTAW and CWC will each lose approximately \$1 million in first-quarter high-cost support.¹⁵ Since high-cost support represents a substantial amount of these carriers' budgets, loss of this support could prove devastating to MTAW and CWC's financial stability

Rural Telehealth Network, <http://www.nrtc.org/about/network-profiles/artn/> (last visited Sept. 13, 2012) "In Alaska, the healthcare workers practicing in hospitals, clinics, and community health centers are essential to the delivery of acute and primary care services to small, rural, and remote communities. Although the majority of Alaska's population is located outside the greater Anchorage area, the majority of healthcare providers in Alaska (e.g., physicians, PAs, RNs, physical therapists) are located in its three largest cities. As a result, rural clinicians practice in a generalist's environment, but where they often need to have specialty knowledge and expertise. This dichotomy is further complicated when you consider the limited opportunities for continuing education and access to specialty consultations available because of travel costs, geographical and weather restrictions, and a general lack of or inability to arrange for clinical coverage during absences." *Id.*

¹² *Transformation Order* at para. 159.

¹³ 47 C.F.R. § 1.3.

¹⁴ When considering a Petition for Waiver, the Commission may consider hardship, equity, and more effective implementation of overall policy on an individual basis. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C.Cir. 1969).

¹⁵ *MTAW Petition* at 6; *CWC Petition* at 7.

and ability to continue offering a full spectrum of services without interruption.¹⁶ The ARC respectfully submits that the potential loss of services in areas of Remote Alaska and the potential for permanent damage to MTAW and CWC’s future financial stability represents good cause to grant the Petitions.

Small carriers in Alaska face a unique set of challenges to providing services that typical Lower 48 carriers do not face, including limited staff, greater challenges to maintaining infrastructure because of weather, rugged terrain, short construction seasons, and overall higher costs to provide service.¹⁷ These small companies operate with extremely limited staffs—in fact, despite increasing state and federal regulatory requirements, many ARC members have reduced their staff for budget reasons since the *Transformation Order*’s release. The Commission must allow sufficient regulatory flexibility and leeway to account for the differences in providing

¹⁶ *MTAW Petition* at 6; *CWC Petition* at 8.

¹⁷ See *Reply Comments of the Regulatory Commission of Alaska, in the matter of Connect America Fund*, et al., 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 (Feb. 17, 2012) (“*RCA Reply Comments*”) at 7 (“Extremely limited fiber facilities and lack of access to the Internet are unique to Alaska and require unique solutions.”); *Reply Comments of the Alaska Rural Coalition*, WC Docket No. 10-90, WC Docket No. 05-337, before the FCC (July 23, 2012) (“*ARC Reply Comments*”) at 9 (“[T]he lack of roads, extreme climate and harsh geography of Alaska must remain in the forefront of the discussion when considering the role the Remote Areas Fund will play in Alaska”); *Comments of Alaska Communications Systems, Inc.* 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) (“*ACS USF Comments*”) at 3, n. 4 (“Almost everything about providing communications services in Alaska is unique and sets its service providers apart from what other carriers across the country experience.”); *Comments of General Communication, Inc. 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) (“*GCI USF Comments*”) at 2-4 (“Alaska is a uniquely high cost area within which to provide any telecommunications, whether traditional telephony, mobile or broadband. Much of remote Alaska lacks even the basic infrastructure critical to most telecommunications deployment, such as a road system and an intertied power grid.”).

services in Remote Alaska and the Lower 48. The Commission should focus on assisting these carriers by extending greater support to companies serving extremely high-cost areas, rather than denying badly-needed support based on administrative error by their staffs.¹⁸

The Commission grants waiver requests for filing deadlines when good cause has been demonstrated for such waiver.¹⁹ The increasingly difficult circumstances facing small Alaska carriers, together with the importance of the associated high-cost support to MTAW and CWC, presents more than sufficient cause to grant the Petitions for Waiver. MTAW and CWC have filed the necessary line count data with USAC, and have each implemented significant measures to ensure that this error does not recur.²⁰ The ARC respectfully submits that denying support to carriers and service areas that badly need it to maintain critical services, based on no more than administrative error, does not serve the public interest. The Petitions must be granted to preserve the availability and future availability of telecommunications services in MTAW and CWC's service areas in Remote Alaska.

¹⁸ See *Transformation Order* at para. 101, n. 158 (“Even if the modest speeds of 4 Mbps down/1 Mbps up are adopted by the FCC as target throughput speeds, substantial construction of terrestrial facilities and expansion of satellite capacity will be needed to create the backhaul capability that will be necessary to deliver broadband at those speeds in Alaska.”).

¹⁹ See 47 C.F.R. § 1.3; see also *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines, et al.*, WC Docket No. 08-71, CC Docket No. 96-45, Order, DA 11-1337, 26 FCC Rcd 11069, 11073-74, ¶ 12 (Wireline Comp. Bur. 2011); *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines, et al.*, WC Docket No. 08-71, CC Docket No. 96-45, Order, DA11-650, 26 FCC Rcd 4908, 4910-11, ¶¶ 7-8 (Wireline Comp. Bur. 2011); *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines et al.*, WC Docket No. 08-71, CC Docket No. 96-45, Order, DA 10-107, 25 FCC Rcd 843, 854-855, ¶ 22 (Wireline Comp. Bur. 2010); *In the Matter of Petitions for Waiver of Universal Service High-Cost Filing Deadlines, et al.*, WC Docket No. 08-71, CC Docket No. 96-45, Order, DA 08-2336, 23 FCC Rcd 15325 (Wireline Comp. Bur. 2008).

²⁰ See *MTAW Petition* at 7; *CWC Petition* at 6-7.

III. Conclusion.

The ARC supports MTAW and CWC's Petitions for Waiver. Granting forgiveness of MTAW and CWC's clerical errors regarding filing of line count data is essential, given the harm to availability of services that could result from these companies' loss of first-quarter 2014 support. Especially in Remote Alaska, where many networks are not duplicated and telecommunications represents a crucial link to the outside world, the Commission must take steps to ensure ongoing support to small carriers who are struggling to maintain services in a drastically altered regulatory environment. Good cause exists to grant the Petitions for Waiver.

Respectfully submitted on this 18th day, December 2013.

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