

and thus has not received high-cost support for providing service. Recognizing the reality that customers in most census blocks in ACS service areas already have access to robust broadband, the Bureau identified a logical process to determine whether high-cost subsidies are necessary on a going-forward basis to ensure that consumers in these census blocks will continue to receive voice and 4 Mbps/1 Mbps broadband service.

Instead of addressing the policy behind the “unsubsidized competitor” rule and the Bureau’s Paragraph 41 waiver process, ARC and USTA spew unsubstantiated hyperbole about the alleged devastating impact of Paragraph 41, completely ignoring the Commission’s ability to establish service and buildout conditions as part of a Connect America Fund Phase II (“CAF Phase II”) support auction, as well as pursuant to Section 254(e) of the Communications Act. Finally, ARC—whose members are all rate-of-return ILECs wholly unaffected by this *CAF Phase II Service Obligations Order*—uses this forum to cast lazy, incorrect, and irrelevant aspersions at GCI. The Commission should pay no mind to these attempts to obfuscate the real issues and should deny ACS’s Application.

The most recent Connect America Cost Model (“CACM”) version 4 illustrative results show ACS receiving \$21 million to \$23 million in high-cost support if GCI’s network and services are ignored as a “subsidized” competitor.³ The overriding public policy question is whether it is better for the Commission to use this high-cost support to help ACS overbuild areas where GCI already provides service at or above 4 Mbps down and 1 Mbps up, or to target this support on areas without 4 Mbps/1Mbps broadband service from any provider. Within Alaska, this could be done by raising the “extremely high-cost threshold,” reflecting the State’s unique

³ See Connect America Cost Model v4.0 Illustrative Results, *available at* <http://www.fcc.gov/encyclopedia/connect-america-cost-model-illustrative-results> (last accessed Dec. 20, 2013).

conditions, which would then enable terrestrial broadband deployment to at least a portion of the approximately 7,000 locations that otherwise are consigned to service through the Remote Areas Fund.

I. THE REAL QUESTION, WHICH THE *CAF PHASE II SERVICE OBLIGATIONS ORDER* CORRECTLY ADDRESSES, IS WHETHER THE HIGH-COST SUPPORT ACS SEEKS IS NECESSARY TO SUSTAIN SERVICE IN A GIVEN CENSUS BLOCK.

The Bureau, in its *CAF Phase II Obligations Order*, properly permitted challenges to “subsidized competitor” status by CETCs at the census block level. ARC and USTA seemingly argue that the appropriate boundary for determining whether there is an “unsubsidized competitor” is the study area where a particular ILEC is the carrier of last resort (“COLR”).⁴ Such a rule would undermine the Commission’s stated goals. In the *Transformation Order*, the Commission stated that CAF support would be available only “where a federal subsidy is necessary to ensure the build-out and operation of broadband networks.”⁵ The census block is the basic geographic unit selected for CAF Phase II support precisely to ensure that determinations are made on a highly granular level.⁶

The National Broadband Map supports the Commission’s decision on this issue. As Exhibit 1 demonstrates—and as can be seen from the maps in Exhibit 2—the data from the current version of the National Broadband Map (from December 31, 2012) show that there are very few census blocks in which ACS is the sole provider of 3 Mbps/768 Kbps broadband service. GCI is a designated ETC for its wireline services and so receives some legacy high-cost

⁴ See ARC Comments at 8-9.

⁵ *Transformation Order*, 26 FCC Rcd.17,663 at 17,673-74 ¶ 24.

⁶ See *id.* at 17,735-17,736 ¶ 188; see also *Connect America Fund*, Report and Order, DA 13-1113, 28 FCC Rcd. 7211, 7220 ¶ 22 (2013) (“*CAF Phase II Challenges Order*”).

support in five ACS study areas (not including the ACS of the Northland—Sitka study area). In these areas, GCI provides at least 3 Mbps/768 kbps broadband in 79 percent of census blocks, containing 89 percent of occupied housing units, and is the only provider of 3/768 broadband in 21 percent of the blocks, covering 17 percent of occupied housing units.⁷ In contrast, ACS is the sole provider of 3/768 broadband services in just eight percent of census blocks and seven percent of occupied housing units.⁸ Paragraph 41 does not affect this small portion of ACS’ study areas where GCI does not compete, but instead affects only the census blocks that GCI serves (either as the sole provider or in competition with ACS).

ARC and USTA, however, would ignore this granular data and calculate ACS’ CAF Phase II support under the fiction that GCI does not serve any of ACS’ study areas where it is the COLR. Allowing ACS to receive support for upgrading its services in the 79 percent of census blocks covering 89 percent of occupied housing units that GCI already serves does nothing to improve broadband availability; it simply subsidizes a trailing competitor. Following their recommendation would mistarget scarce high-cost support without any discernable public policy benefit. And, as NCTA points out, granting ACS’s Application would undermine the Commission’s goals in reforming the high cost program: “Where consumers are able to receive service from a competitive provider that will not be receiving universal service support, there is no need for the Commission to waste valuable CAF money by giving it to the incumbent LEC to serve the same consumers.”⁹ As it is, GCI already receives a mere fraction of the wireline high-

⁷ See Exhibit 1.

⁸ The difference is particularly stark in Anchorage, Fairbanks and Juneau, as illustrated in Exhibit 2.

⁹ Opposition of The National Cable & Telecommunications Association at 4, WC Docket No. 10-90 (filed December 11, 2013) (“NCTA Opposition”).

cost support that ACS receives for service in these five study areas,¹⁰ and GCI's wireline high-cost support will continue to be phased down going forward.

The Bureau was correct to establish a process by which the Commission can evaluate whether it is likely that a CETC will continue to serve target census blocks without support, and to be able to do so in the context of specific facts regarding specific census blocks. The Commission should ratify the Bureau's decision and reject the arguments of ARC and USTA to instead look at whether an ILEC is the COLR in a study area.

Furthermore, ARC's inclusion of non-high-cost support is simply irrelevant and has nothing to do with whether it provides unsubsidized service in any particular census block. For example, the Rural Utility Service grants and loans that GCI received to assist with the building of its TERRA network in southwestern Alaska have absolutely nothing to do with its provision of voice and broadband services in Anchorage, Fairbanks, Juneau, the Kenai Peninsula, Kodiak Island, Sitka or any place beyond the communities served by TERRA.¹¹ TERRA serves only four ACS communities—Kokhanok, Port Alsworth, Nondalton, and Pedro Bay. There is no conceivable link between GCI's voice and broadband support and its Rural Utility Service grants and loans, with the possible exception of these four, very small communities.¹²

¹⁰ GCI currently receives \$5.18 million annualized, while ACS receives \$16.7 million. ACS receives another \$2.97 million of legacy high cost support for ACS of the Northland—Sitka, giving it a holding company wide legacy high cost support level of \$19.6 million per year.

¹¹ The \$44 million that GCI received as a Grant from the Rural Utility Service has been dwarfed by the over \$200 million GCI has invested in building and extending its TERRA network.

¹² Contrary to ARC's claims, GCI does not have monopoly over middle-mile transport to the communities along its TERRA network. Those communities also have, or can have, satellite-based middle mile service, at a minimum. As GCI has previously told the Commission, it has lost competitive bids in TERRA-served communities, proving that other middle mile services are substitutable for TERRA. Reply Comments of General Communication, Inc. at 21, WC Docket No. 13-184 (filed November 8, 2013). In addition,

The Commission appropriately focused its definition of an “unsubsidized competitor” on the receipt of “high-cost support,” not other USF support such as Lifeline, E-rate and Rural Healthcare. E-rate and Rural Healthcare are not limited to Eligible Telecommunications Carriers, and including those sources of support would have significantly altered the scope of the “unsubsidized competitor” definition nationwide. Moreover, while high-cost support is focused on making general commercially-available services affordable and reasonably comparable, Lifeline, E-rate and Rural healthcare all focus on improving affordability for specific target users with special needs.

Furthermore, the argument that ARC appears to be making that any subsidy of any kind anywhere in the State of Alaska should render GCI a subsidized competitor has no cognizable limits. Indeed, under ARC’s implied theory, GCI would be considered subsidized even in the ACS of the Northland—Sitka study area, where GCI does not and cannot receive high-cost support for wireline service. This makes no sense.

Accordingly, the “unsubsidized competitor” test appropriately looks only to high-cost support that a CETC receives for providing the required service in the specific census block at issue. As the National Cable and Telecommunications Association (“NCTA”) observes, “[i]f the competitive provider will be able to serve customers in an area without support, there is no basis to provide support to the incumbent LEC in that area.”¹³

GCI recently reduced the posted prices for its TERRA services, and expanded the posted, available term discounts to encompass those that had previously been offered on an individual case basis. GCI makes TERRA services available on a nondiscriminatory basis, including to other carriers, consistent with these posted rates.

¹³ NCTA Opposition at 3.

II. ARC'S HYPERBOLIC CLAIMS OF HARM TO UNIVERSAL SERVICE IGNORE THE STRUCTURE OF CAF PHASE II, THE FOLLOW-ON COMPETITIVE BIDDING PROCESS AND SECTION 214(e).

ARC alleges that “unless the Commission reverses or stays Paragraph 41, high-speed broadband in many highest-cost areas of Alaska will remain a promise and not a reality, and universal voice services may be in jeopardy.”¹⁴ Such hyperbole is baseless. In fact, for the same total amount of CAF Phase II support, increasing the extremely high-cost threshold in Alaska, as discussed in Section III below, would do much more expand broadband in remote Alaska than to support ACS in the census blocks that GCI already serves.

As an initial matter, as discussed above, Paragraph 41 only affects those census blocks in which GCI already provides voice and broadband service meeting or exceeding the Commission’s performance requirements. GCI will continue to serve those blocks, thus they will not be or become unserved.

Moreover, state and federal mechanisms exist to ensure the census block will remain served even in the theoretical situation where ACS withdraws its service. To the extent that GCI remains an ETC in a census block, the Regulatory Commission of Alaska retains the authority to require GCI to expand its service. Section 214(e)(4) states, in the case of an ETC ceasing to provide universal service, “the State commission . . . shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served.” What’s more, with regard to intrastate services, the state commission may “determine which common carrier or carriers are best able to provide such service to the requesting unserved community,” and the FCC has similar authority with respect to interstate services.

¹⁴ ARC Comments at 6-7.

Finally, CAF Phase II support does not simply vanish if the ILEC declines its statewide election. In that event, the support will be distributed subject to a competitive bidding mechanism. The Commission will no doubt require the winning bidder to meet the same performance requirements that the ILEC would have had to meet had it elected to receive the money statewide.

The Commission's CAF Phase II procedures, in combination with the other mechanisms described in this section, adequately protect universal service, notwithstanding ARC's hyperbolic protestations. Neither ACS, ARC, nor USTA have articulated any reason why ACS should receive support for GCI-served areas in Anchorage, Fairbanks, Juneau and the Kenai Peninsula, where GCI has received wireline high cost support that is being phased out— particularly as contrasted with ACS of the Northland – Sitka, in which GCI has never received wireline high-cost support.

III. RATHER THAN SUBSIDIZING ACS'S DESIRE TO IMPROVE ITS OWN SERVICE WHERE GCI ALREADY PROVIDES ROBUST BROADBAND, THE COMMISSION SHOULD RAISE THE "EXTREMELY HIGH-COST" THRESHOLD FOR ALASKA.

GCI agrees with ACS and ARC that Alaska's unique challenges and need for universal service support to close the infrastructure and service gap with much of the rest of the country is well-documented and unquestionable. GCI wishes to make clear that it is *not* advocating for cuts in the total support to Alaska. To the contrary, GCI believes that CAF Phase II support should remain at least as high as it is today, and should likely increase. However, rather than providing that support to ACS to permit ACS to overbuild GCI in those census blocks in which GCI provides voice and broadband services meeting or exceeding the Commission's performance requirements, instead the Commission should retarget that support to price cap areas in Alaska that do not yet have broadband service meeting the FCC's performance standards and that are

unlikely to meet those performance standards in the foreseeable future without support. Thus, the Commission should increase the “extremely high cost” threshold for Alaska.

An elevated threshold for classifying census blocks as “extremely high-cost” in Alaska would have significant benefits. More areas would fall within CAF Phase II, and be subject to the CAF Phase II buildout requirements, rather than being punted to the Remote Areas Fund at some point in the future. For those areas not served by terrestrial networks, *i.e.*, those served only by satellite middle mile, the required performance requirements are substantially lower,¹⁵ but the provider awarded support for those census blocks would be required to ensure that all locations in that block received service at those levels by the end of the five-year buildout period. This will ensure greater broadband access, particularly in off-road communities, than allowing ACS to receive support for overbuilding GCI, even with the same amount of total Alaska CAF Phase II support.

Alaska’s unique challenges and costs warrant an increased “extremely high-cost” threshold. Alaska’s uniquely-driven costs—such as the facilities necessary to reach Internet access points in the lower 48, high costs of transporting equipment, high labor costs, costs of long terrestrial middle-mile links, and costs resulting from Alaska’s extreme climate—combined with its large size and low population density, render a nationwide, “one-size-fits-all” “extremely high cost” threshold irrational for Alaska as compared with the rest of the country. Setting a higher threshold for Alaska would restore the relative scaling of terrestrial versus other technologies to a level comparable to the rest of the United States. This would ensure that more,

¹⁵ In areas with no terrestrial backhaul, funding recipients must offer broadband service speeds of at least 1 Mbps downstream and 256 kbps upstream within the supported area served by satellite middle mile facilities. *Transformation Order*, 26 FCC Rcd.17,663 at 17,699-17,700 ¶ 101.

rather than fewer, Alaskans have access to broadband Internet access services comparable to the rest of the country.

IV. CONCLUSION

Neither ARC, whose members are not price cap LECs affected by the order, nor USTA present additional arguments that justify reversing Paragraph 41 of the *CAF Phase II Service Obligations Order*. As GCI observed previously, ACS has filed the equivalent of an Application for Review of an interlocutory comment schedule. Nonetheless, now that it is presented with the issue, the Commission should ratify Paragraph 41, and consider preventing a price-cap ILEC from receiving support in areas in which a competitor will be wholly unsubsidized before the end of the initial five-year period of CAF Phase II support.

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December 23, 2013