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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Universal Service Reform—Mobility Fund	)	WT Docket No. 10-208
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

COMMENTS OF THE ALASKA RURAL COALITION

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I. Introduction.

The Alaska Rural Coalition[1] ("ARC") files its Comments in this proceeding pursuant to the Notice of Proposed Rulemaking issued by the Federal Communications Commission ("Commission") on June 10, 2014 seeking comment on additional mechanisms to fulfill the Commission's mission to ensure that all consumers "have access to … advanced telecommunications and information services."[2] The ARC appreciates the Commission's dedication to extending advanced services to all Americans and not leaving anyone behind the evolving digital economy.[3]

The ARC membership consists of most of the rate of return incumbent rural local exchange carriers ("RLECs") in Alaska, all of whom serve some of the highest cost areas of the nation. ARC members are generally small, rural telephone companies and cooperatives that serve tribal lands and endeavor to bring the highest quality of service

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[1] The ARC is composed of Alaska Telephone Company, Arctic Slope Telephone Association Cooperative, Inc., Bettles Telephone, Inc., Bristol Bay Telephone Cooperative, Inc., Bush-Tell, Inc., Circle Telephone & Electric, LLC, City of Ketchikan dba Ketchikan Public Utilities, Copper Valley Telephone Cooperative, Cordova Telephone Cooperative, Inc., Inc., Interior Telephone Company, Inc., Matanuska Telephone Association, Inc., Mukluk Telephone Company, Inc., North Country Telephone Inc., Nushagak Electric and Telephone Company, Inc., OTZ Telephone Cooperative, Inc., and The Summit Telephone and Telegraph Company, Inc.

[2] *See Connect America Fund, Universal Service Reform – Mobility Fund, ETC Annual Reports and Certifications, Establishing Just and Reasonable Rates for Local Exchange Carriers, Developing an Unified Intercarrier Compensation Regime*, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-208, CC Docket No. 01-92, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (June 10, 2014) ("*Omnibus Order*") at para. 1 (quoting 47 U.S.C. § 254(b)(3)).

[3] *See Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Statement of Commissioner Mignon L. Clyburn, FCC 14-98 (July 14, 2014) ("…we will not leave behind those Americans who today find themselves on the wrong side of the digital divide.").

possible to Alaskans. The ARC welcomes the Commission's reflection and reconsideration of high cost funding mechanisms needed to adequately service high cost locations in Alaska. The ARC offers comment on support mechanisms for both wireline and wireless service in Remote Alaska. The ARC believes the Commission is moving in the right direction in many ways to close the digital divide that is particularly egregious in Remote Alaska. There remains much to do to insure that rural and remote areas enjoy predictable and sustainable universal service.

II. Evolving Public Interest Obligations Threaten To Deepen the Digital Divide.

A. Increasing the Broadband Benchmark May Harm Rural and Remote Areas.

The Commission proposes to increase the current speed benchmark of 4 Mbps download to 10 Mbps.[4] The Commission additionally seeks comment on whether the upload speed should be increased to 2 Mbps.[5] The justification for this significant increase in the broadband benchmark relies on evolution of the marketplace since the adoption of the *Transformation Order* in 2011.[6] It is difficult to argue that the broadband market experienced significant development in recent years, but the record suggests that

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[4] *Omnibus Order* at para. 140.

[5] *Omnibus Order* at para. 141.

[6] *Omnibus Order* at para. 139 ("The marketplace for broadband has continued to evolve since the adoption of the *USF/ICC Transformation Order*."). *See also Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) ("*Transformation Order*").

the advancement in available speeds is much more prevalent in urban and suburban areas than rural and remote areas, due to the much lower customer density and higher costs of offering broadband in rural and remote areas.[7]

The ARC understands the Commission's motivation to increase the speed required to qualify for high cost support, but requiring increased speeds may have unintended consequences in rural areas.[8] The Commission's increase of the broadband benchmark is intended to promote faster service and increase investment in existing networks. The intended result is much more likely where the investment needed to increase the incremental speed from 4 Mbps to 10 Mbps is manageable and limited to an upgrade of electronics on existing equipment. Increasing the broadband benchmark in areas that require a significant middle mile investment will not have the intended result.

The existence of adequate middle mile infrastructure capable of providing higher broadband service envisioned by the Commission must be a factor in whether a carrier can be held to the benchmark. In areas without reliable or affordable terrestrial middle mile infrastructure, the ability to meet the existing benchmark let alone a higher one is not possible.[9] The ARC urges the Commission to extend the existing exception for those

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[7] *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 11-21, Eighth Broadband Progress Report, FCC 12-90 (Aug. 21, 2012) at 34-35. The population density in census tracks that lack access to fixed broadband meeting the FCC's speed benchmark is more than eight times smaller than in census tracks with full access. *Id*.

[8] *Omnibus Order* at para. 146.

[9] *See Comments of General Communication, Inc. on the CAF Phase 1 Unserved Areas List in the matter of Connect America Fund*, WC Docket No. 10-90 (Jan. 9, 2013) ("*GCI*

carriers dependent on satellite middle mile due to cost or availability.[10] Without an exception for carriers unable to meet the benchmark due to no fault of their own, particularly those serving Remote Alaska, the Commission risks unintentionally depriving the highest cost areas of the Nation the high cost support it desperately needs to maintain telecommunications service.

The ARC sees the same inherent problem with increasing the upload speed to 2 Mbps. The ability to meet such a benchmark depends on the availability of reliable and affordable middle mile, which are lacking in most areas of Remote Alaska. Satellite

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Comments") at fn. 9; *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 5 ("Advanced telemedicine, distance learning, and other many enterprise broadband services will require the deployment of terrestrial middle-mile facilities: satellite services cannot support applications that tolerate only very low latency.") and at 26 ("Satellite capacity is also extremely expensive and non-scalable; satellite costs rise directly in proportion to capacity needs. Therefore, unless terrestrial middle-mile networks can be built, the cost to the USF will continue to rise as consumers' demand increases. The only alternative would be to either increase the cost to consumers—which would likely render rates unaffordable and not reasonably comparable to urban areas—or render the services not reasonably comparable due to much lower amounts of included usage than in urban areas."); *see also* Abhishek Shukla, *7 Reasons Why Tablets or Smart phones Can't Replace Laptops*, TECHiFire (Jan. 16,2012), available at http://www.techifire.com/gadgets/phonesl7-reasons-why-tabletsorsmartphones-cant-replace-laptops/. For reasons the ARC has previously explained to the Commission, Alaska's relatively extreme latitude and weather mean that satellite broadband will be an inadequate solution to providing its rural areas broadband service. *See also Comments of Alaska Rural Coalition*, 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 (Jan. 18, 2012) ("*ARC USF Comments*") at 25 ("Satellite service is notoriously unreliable in Alaska for many reasons including inclement weather and geographic limitations based on line of sight.") and at 32 ("Unfortunately, providing the speed, latency or capacity required by the Commission for CAF support for satellite service is not yet capable in most areas of Alaska."); *Comments of Alaska Communications Systems, Inc.*, 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 (Jan. 18, 2012) ("*ACS USF Comments*") at 8.

[10] *See* 47 C.F.R. § 54.313(g).

transport for middle mile is too unreliable and expensive in Alaska to accomplish that speed.[11]

B. Agnostic Technology Requirements May Deepen Digital Divide.

The Commission proposes to develop the record on allowing Phase II recipients to satisfy their obligations using any technology or combination thereof (wireline or wireless, fixed or mobile, terrestrial or satellite).[12] The Commission encourages wireless providers to participate in the CAF Phase II competitive bidding process.[13] The expansion of CAF participants to include wireless and satellite providers does not serve the need to bolster the fiber networks needed to deliver the robust broadband embraced by the National Broadband Plan.[14]

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[11] The ARC has provided the Commission with a study commissioned by TelAlaska supporting this position. *See* Martin & Baugh Consulting Group, *Satellite Internet Review* (Jan. 30, 2012), attachment to Shannon M. Heim, Ex Parte Notice, before the FCC (June 12, 2012); *see also Comments of the Regulatory Commission of Alaska*, Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rate for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, before the FCC (April 18, 2011) ("*RCA Comments*") at 22 ("Alaska providers have commented that satellite transmission has problems with latency, data transmission continuity, and disruptions from weather conditions… Nevertheless, for many areas of Alaska, satellite links may be the only viable option to deploy broadband, provided sufficient capacity is available.").

[12] *Omnibus Order* at para. 154.

[13] *Omnibus Order* at para. 154 ("We emphasize that wireless providers are free, and indeed encouraged, to participate in Connect America Phase II, and fixed wireless already is an option for the delivery of service in Phase II under the framework established by the Commission in the USF/ICC Transformation Order.").

[14] *See* Federal Communications Commission, *Connecting America: The National Broadband Plan* ("*National Broadband Plan*"), at 144 ("The FCC should create a Connect America Fund to address the broadband availability gap in unserved areas and provide any ongoing support necessary to sustain service in areas that already have broadband because of previous support from federal USF.")

The ARC does not support the allocation of CAF funding to wireless or satellite providers.[15] The Commission recognized the need to provide a funding mechanism for wireless providers and allocated funds for them through the Mobility Auctions.[16] The ARC believes that funding for wireless carriers should remain in the mechanism originally intended. To comingle funding mechanisms risks stranding legacy wireline networks.[17] Although residential intermodal competition has increased over recent years, the reliance on the underlying legacy terrestrial network infrastructure has not waned.[18]

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[15] *See Comments of The Alaska Rural Coalition*, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996 as Amended by the Broadband Data Improvement Act, GN Docket No. 12-228, before the FCC (Sep. 20, 2012) ("*ARC ATC Comments*") at 10 ("[T]he ARC does not believe that mobile broadband will ever be sufficient to fulfill the obligations of 'advanced telecommunications capability' as required by Section 706… the ARC believes that, given the current capabilities of mobile service, it is unrealistic to expect mobile to reach these benchmarks in any cost-effective way.").

[16] *See Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) ("*Transformation Order*") at para. 322 ("The goal of Mobility Fund Phase I is to extend the availability of mobile voice service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support.").

[17] *See Comments of the Alaska Rural Coalition*, Connect America Fund, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, WT Docket No. 10-208, before the FCC (Dec. 21, 2012) ("*ARC Mobility Comments*") at 14 ("Assigning weight to the Remote Areas Fund in the provisioning of wireless support risks straining the Fund's limits beyond capacity, unnecessarily confusing two distinct mechanisms of high cost support, and, ultimately, undermining the Commission's goals of universal service in all areas, even those with a high cost of service.").

[18] *See Meeting the Mobile Backhaul challenges*, Transmode, available at www.transmode.com/en/resource/whitepapers?task-document.download&id=109 ("Mobile broadband technologies associated with 3G, 4G WiMAX and LTE are creating important new

The importance of the fiber in local telephone networks to provide critical connections and backhaul has been long recognized by the Commission.[19]

The proposal to allow a recipient of CAF Phase II funds to use any combination of infrastructure it chooses assumes that the different types of technology can substitute for each other. The ARC disputes the underlying premise. Wireless is not a substitute for wireline service.[20] Although many consumers use their wireless devices to surf the internet, few use those devices solely for business applications.[21] It is highly unlikely wireless could ever meet the 100 Gbps minimum usage levels the FCC recently published

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multimedia service opportunities for both mobile operators and fixed/mobile operators worldwide, but the revenue opportunity created by mobile multimedia services can only be realized if the very real challenge of finding more cost effective backhaul transport is overcome. Choosing the right solution to cost effectively scale backhaul from the cell site to the IP backbone can make or break the business case for a carrier's new mobile multimedia services.").

[19] The Commission recently noted that fiber is the most obvious replacement for deteriorating copper lines. *See Omnibus Order* at fn. 129 ("In issuing this Declaratory Ruling, we do not intend to suggest that it would be inappropriate under our universal service rules for a carrier to replace any existing copper line, that has deteriorated to the point it no longer provides adequate voice service, with fiber in the ordinary course of network maintenance, subject to any applicable regulatory requirements.").

[20] *See Comments of the Alaska Rural Coalition*, Auction 902 Tribal Mobility Fund Phase I, AU Docket No. 13-53, before the FCC (May 10, 2013) ("*ARC Tribal Mobility Comments*") at 9 ("Committing to deploy mobile services in the "sprinkling" of areas currently depicted in Attachment A to the Tribal Mobility Public Notice will not be effective unless those areas are connected to the Internet backbone via terrestrial facilities.").

[21] Thompson & Garbacz found that expansion of mobile broadband actually has a negative effect on efficiency in a developed country. Herbert G. Thompson, Jr. & Christopher Garbacz, *Productivity Impacts of Mobile versus Fixed Broadband Use*, McClure School of Information and Telecommunications Systems, Ohio University, available at http://businessinnovation.berkeley.edu/Mobile_Impact/Thompson_and_Garbacz.pdf, at 12 ("Clearly one possible explanation for the negative effect found here is that in the developed world, mobile broadband is as of yet, an unproductive extension of the valuable fixed broadband networks. And there may be valuable time spent in learning to use these devices productively at this time. Again, in the developed world, these devices, particularly the smart phone, may provide too many unproductive distractions (phone, music, cameras, games, etc.).").

with its urban broadband rate benchmark study.[22] It is also critical to note that satellite service in Alaska will never meet the benchmarks. The potential for misspent funds is exponentially greater in regions where alternative technologies are not sufficient.

The Commission seeks comment on whether carriers should be required to explain to customers the difference of technology used to serve them.[23] Put another way, if a carrier combines technology to provide service to a consumer, does the consumer deserve transparency? The ARC supports transparency in the process. Most consumers prefer a fixed broadband connection at home due to the superior speed, usage caps, and latency.[24] Wireline networks continue to be the most reliable mechanism to provide a sufficient level of broadband.[25] Consumers should be provided the maximum amount of data to make an informed choice regarding their service.

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[22] *See* Wireline Competition Bureau Staff Report, *Possible Methodologies for Establishing Reasonably Comparable Broadband Rates for Fixed Services* (June 30, 2013).

[23] *Omnibus Order* at para. 156.

[24] *See, e.g.*, *Home Sales Advantage: Fiber-Based Broadband*, Verizon (June 29, 2009), *available at* http://newscenter2.verizon.com/press-releases/verizon/2009/home-sales-advantage.html ("A national study of U.S. broadband consumers by RVA LLC Market Research and Consulting, released this week, shows that 82 percent of those buyers who have had broadband service over fiber all the way to the home rank it as the leading real estate development amenity. Four other key prospective features ranked lower among buyers shopping for a new home.").

[25] This is illustrated by the fact that almost all intercontinental internet traffic is routed using fiber-optic cables. *See* Clay Dillow, *Under the Sea: In the Age of Wireless, Can't We Do Better than Intercontinental Fiber Optic Cables?*, Popular Science (Feb. 28, 2012), *available at* http://www.popsci.com/technology/article/2012-02/under-sea-age-wireless-cant-we-do-better-intercontinental-fiber-optic-cables ("The physical cables running along (and sometimes under) the seabed carry huge volumes of data in the form of light, orders of magnitude more data than can be packed into radio signals that might be beamed wirelessly via satellites or antenna towers. The idea of replacing those cables with some kind of through-the-air technology is tempting, but for the foreseeable future we're stuck with fiber optics.").

Additionally, the FCC seeks comment on enforcement mechanisms to insure that service quality matches claims made by carriers. [26] The ARC concurs with the Commission that there should be an enforcement mechanism. Many carriers have had legal issues related to making false promises regarding how technology will perform.[27] The variability of mobile services makes enforcement a complicated issue. Rather than expend excessive resources trying to enforce a potentially moving target for wireless speeds, the ARC believes the FCC should prioritize the funding and enforcement of wireline network infrastructure.

III. Flexibility in Meeting Deployment Obligations Promotes the Public Interest.

The CAF Phase II challenge process assumes that partially served census blocks will be treated as fully served.[28] The Commission seeks comment on whether it should allow flexibility to serve less than 100% of funded locations. The Commission also seeks comment on how such a proposal would work.[29]

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[26] *Omnibus Order* at para. 156.

[27] *See, e.g.*, Alex Green, *Internet provider Windstream agrees to $600,000 settlement with Georgia*, Chattanooga Times Free Press (Feb. 26, 2014), *available at* http://www.timesfreepress.com/news/2014/feb/26/internet-provider-facing-fine/ ("The company's Georgia woes stem from allegations that Windstream told some Georgians it could provide them internet speeds that it could not, and failed to explain after providing service that some speed issues were not fixable because of outdated wiring."); Suzanna Caldwell, *Bethel residents seek class action lawsuit against GCI*, Alaska Dispatch News (Apr. 24, 2014), *available at* http://www.adn.com/article/20140424/bethel-residents-seek-class-action-lawsuit-against-gci ("The plaintiffs claim that the telecommunications company, known in Alaska as GCI, sought to enroll thousands of new subscribers in wireless, smartphone and data plan services through statewide marketing campaigns, all of which fell short of advertised promises.").

[28] *Omnibus Order* at para. 162.

[29] *Omnibus Order* at para. 165.

The ARC supports promoting flexibility for carriers serving rural areas of the country where developing broadband has been slower than urban areas. It is important for the Commission to make rational decisions regarding narrowing the obligations of carriers making commitments to serve. In areas where there are large census blocks, like Alaska, it is particularly important to not treat partially serviced census blocks as fully served.[30] Excluding partially served census blocks would preclude support from high cost areas that need it to provide robust broadband. The ARC does not expect this to be a significant issue in Alaska price cap areas, but if the Commission seeks to move rate of return companies to the price cap cost model, it could be much more problematic.

IV. Broad Eligibility of Areas for Phase II Support Serves the Public Interest.

The Commission seeks comment on whether the best use of the CAF budget is to provide support in geographic areas where there is another facilities-based terrestrial provider of fixed residential voice and broadband services that meets our current requirements, whether that competitor is subsidized or not.[31] The Commission also seeks comment regarding whether support should be limited to areas lacking broadband service meeting the Commission's proposed 10 Mbps/ 1 Mbps benchmark.[32]

The ARC is concerned about the increase of the broadband benchmark while rural and Remote areas of the nation are struggling to meet the current benchmark of 4 Mbps/

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[30] *Transformation Order* at para. 347 ("In Alaska, the average census block is more than 50 times the size of the average census block in the other 49 states and the District of Columbia, such that the large size of census areas poses distinctive challenges in identifying unserved communities and providing service.").

[31] *Omnibus Order* at paras. 174-75.

[32] *Omnibus Order* at para. 175.

1 Mbps.[33] All Americans deserve to benefit from the robust broadband service readily available in urban areas.[34] The deepening digital divide poses a grave concern for Remote Alaska.[35] If the Commission does not address these issues now, it is increasingly likely that those lacking robust broadband will never enjoy the many benefits of a wired world.[36] Increasing the broadband speed benchmark will only result in improved service in rural and remote areas if federal investment in terrestrial middle mile infrastructure also increases to connect those currently dependent on satellite middle mile.[37] The ARC appreciates the Commission's willingness to consider the critical issue of middle mile.[38]

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[33] There continue to be wide swaths of underserved territory in rural America. *See, generally*, National Telecommunications & Information Administration, *National Broadband Map*, *available at* http://www.broadbandmap.gov/.

[34] *See* David Beebe and Anne Neville, *Broadband Availability Beyond the Rural/Urban Divide*, National Telecommunications and Information Administration, U.S. Department of Commerce (May 2013), *available at* http://www.ntia.doc.gov/files/ntia/publications/broadband_availability_rural_urban_june_2011_final.pdf ("…only 23 percent of rural residents had wireline download speeds of 50 Mbps or greater available to them, but 63 percent of urban residents, nearly three times as many, had wireline download speeds of 50 Mbps or greater available to them… only 15 percent of rural residents had wireless download speeds of 10 Mbps or greater available, compared to 70 percent of urban residents.").

[35] Only eight of the 23 USF Service Areas are currently capable of offering download speeds greater than 10 Mbps to more than 50% of the population within the service area. National Telecommunications & Information Administration, *National Broadband Map*, *available at* http://www.broadbandmap.gov/rank/all/usf-study-area/alaska/percent-population/speed-download-greater-than-10mbps/ascending/.

[36] *See, e.g.*, *A Blueprint for Alaska's Broadband Future*, Alaska Broadband Task Force (Aug. 2013) ("*Alaska Broadband Task Force Report*") at 18, *available at* http://www.alaska.edu/files/oit/bbtaskforce/2013-08-AK-Broadband-Task-Force-Report%7CA-Blueprint-for-Alaska's-Broadband-Future.pdf ("Alaska's ability to take advantage of these new educational opportunities depends on the availability of affordable and reliable broadband.").

[37] *See Comments of the Alaska Rural Coalition Concerning the Remote Areas Fund*, WC Docket No. 10-90, before the FCC (Feb. 19, 2013) ("*ARC RAF Comments*") at 7 ("Assigning a portion of the Remote Areas Fund to address the lack of middle mile in Alaska would bring real and sustainable change to the broadband map by completing the already in place, cost-effective

The Commission seeks comment regarding whether or not a competitor must be "unsubsidized" to exclude a service area from receiving high cost support.[39] The Commission theorizes that areas that have service today, whether provided by a subsidized or unsubsidized competitor demonstrate an ability to sustain service without any high cost support.[40] The Commission further proposes to exclude any such territory from an offer of model-based support.[41]

The ARC opposes any exclusion of an area with a subsidized competitor from high cost support.[42] The ARC notes the FCC's inquiry relates to price cap areas for purposes of CAF II funding, however this policy implication extends to all areas served by ILECs, price cap or rate of return. To exclude a rural or Remote Alaska area from support, a competing carrier ought to be serving the entire study area of the ILEC with an equivalent facilities based wireline voice and broadband service that meets the FCC's

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last-mile infrastructure that is already capable of delivering broadband services."); *Comments of General Communication, Inc. On Design of the Remote Areas Fund*, WC Docket No. 10-90, before the FCC (Feb. 19, 2013) at 4 ("In Alaska, the key to maximizing broadband-deployment benefits is directly or indirectly (through supporting ETC capacity purchases) supporting the continued development and deployment of middle-mile facilities capable of sustaining both mass-market and community anchor tenant broadband services.").

[38] *See* discussion *supra* at fn. 64.

[39] *Omnibus Order* at para. 174.

[40] *Omnibus Order* at para. 174. The ARC believes that to the extent that an unsubsidized carrier should disqualify a carrier from CAF support, the Commission should take into account the subsidized affiliates of the carrier.

[41] *Omnibus Order* at para. 174.

[42] Although the Commission's current proposal focuses on Price Cap territory, the ARC believes that it establishes a terrible precedent that will ultimately threaten rural telecommunications networks.

service benchmarks for speed, latency, and price.[43] ARC believes the Commission should retain the 100 percent coverage of a study area requirement rather than move to a census block measurement.[44] Using smaller measurements of overlapping coverage threatens at a minimum to strand legacy investment.[45] The ARC believes there is a real risk that allowing less than full coverage of a study area may ultimately endanger the underlying infrastructure and ultimately leave consumers with significantly reduced service or lack of choice.

The ARC continues to believe that the Commission must be sensitive to the many buckets of federal money that may be subsidizing a competing carrier.[46] Denying ongoing support to a carrier serving a high cost area when a competitor receives funding

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[43] *ARC Mobility Comments* at 5-6 ("Census blocks must have substantial coverage by an unsubsidized carrier if support is to be excluded… The Commission should not permit larger carriers to benefit from federal subsidies while also cherry-picking their areas of coverage within large census blocks to exclude the many areas of Remote Alaska that are not profitable to serve within these large census blocks.").

[44] *Transformation Order* at para. 1061 ("…we conclude that we will phase out all high-cost support received by incumbent rate-of-return carriers over three years in study areas where an unsubsidized competitor, or combination of unsubsidized competitors, offering voice and broadband service that meets our performance obligations serves 100 percent of the residential and business locations in the incumbent's study area.").

[45] *ARC Mobility Comments* at 6 ("Including such larger carriers in the definition of unsubsidized carriers, and distributing Phase II support based on that classification, will strand small, rural carriers with the obligation to serve consumers in our nation's most rural, highest-cost areas without the support necessary to do so.").

[46] *See, e.g.*, *Comments of the Alaska Rural Coalition*, Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184, before the FCC (Sep. 16, 2013) ("*ARC E-Rate Comments*") at 3 ("The ARC believes that a carrier's receipt of E-rate funding should be considered when determining whether an area is served by an unsubsidized carrier for purposes of high-cost support. In areas served by monopoly middle mile fiber that lack market checks on the price of transport, E-rate funding can represent a substantial windfall to carriers. E-rate funds therefore should be considered as a class of subsidy when determining whether an area is served by an unsubsidized carrier, and whether other carriers in the area are eligible for high-cost support.").

through a federal program, whether it is CAF, e-rate, or rural healthcare, undermines the long term viability of the service in the area.[47] It is bad public policy to preclude high cost support for ILECs when competing carriers may be using e-rate and rural health care funding to cross-subsidize their voice and broadband services in the ILEC's service area.[48] In addition, the Commission should consider support that is received by closely held affiliates of a competitor. All forms of federal support have to be considered in determining whether a competitor is subsidized and the implications to the marketplace.

The Commission speculates that if CAF support is used to overbuild existing networks to deploy broadband capable infrastructure then other more remote areas won't be built.[49] The Commission relies on this argument of resource scarcity to justify denying support to partially or underserved served areas. The ARC disagrees with this argument. To deny support to the potentially more densely populated areas ignores the relationship between population density and financial viability. ILECs need the support available to upgrade networks in more populous areas to justify the cost of building out to the very highest cost areas. Without the economies of scale, the business case is difficult

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[47] *See ARC E-Rate Comments* at 13-14 ("In Alaska, some carriers receive tens of millions of dollars in E-rate and rural health funding at inflated monopoly prices, and these carriers' profits from E-rate contracts appear to cross-subsidize their entire business. Meanwhile, those carriers are counted as unsubsidized competitors despite their receipt of these funds. Not only does this pattern undermine the Commission's goal of increased efficiency for carriers receiving high-cost support, it also undermines the cost-effectiveness of the E-rate program because there is virtually no competition or E-rate bids due to the inflated cost of middle mile transport.").

[48] There is no prohibition against using funds received through e-rate and rural health care programs to cross-subsidize services, but it creates a substantial disadvantage for small carriers serving the highest cost areas. *See, e.g.*, *Reply Comments of Alaska Communications Systems*, Modernizing the E-rate Program for Schools and Libraries, WC Docket No. 13-184, before the FCC (Nov. 8, 2013) at 5.

[49] *Omnibus Order* at para. 176.

to make. Furthermore, some recurring high cost support is likely necessary to sustain service in a given location, especially in Remote Alaska locations where ongoing operating costs are very high.

The Commission asks whether universal service support is ever efficiently used when spent to overbuild areas where another provider has already deployed service.[50] The ARC believes that in service areas where the competitor is a monopoly, unregulated network, there may be justification to overbuild.[51] Where access to terrestrial middle mile is too expensive or capacity is inadequate, it would not benefit consumers to deny a rural carrier support to build necessary network infrastructure to provide service. Put another way, if there is inadequate capacity or the price for middle mile makes service impossible, CAF funds should be made available to remedy the bottleneck. As discussed above, the ARC believes the 100 percent overlap rule should apply where any unsubsidized carrier OR qualifying competitor overlap the incumbent.

It serves the public interest to fund the incumbent to support the wireline network that all qualifying carriers depend upon.[52] Dale Hatfield recognized that "for wireless's growth to continue it will require fiber deployment."[53] To rely upon the wireless service

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[50] *Omnibus Order* at para. 178.

[51] *See, e.g.*, http://terra.gci.com/project.

[52] *See* Ann Veigle, *Communications Daily: Future of Wireless Linked to Wireline*, US Telecom (Nov. 18, 2010), *available at* http://www.ustelecom.org/blog/communications-daily-future-wireless-linked-wireline ("For high-speed mobile services to work, the connections from cell towers back to the Internet must be upgraded from copper to fiber or high-capacity microwave, requiring a massive investment and deployment program from the wireline industry and others.").

[53] *Id*.

provided by a subsidized carrier to deny long term high cost support to the legacy network fails to recognize the symbiotic relationship between the wireline network and wireless services.

V. ETC Designation and Obligations Should Reflect Rational and Consistent Regulation.

The Commission seeks comment on whether it should adopt a streamlined ETC process for CAF funding and the Remote Areas Fund.[54] The Commission's goal is to expedite the grant of ETC status and assist nontraditional ETCs in participating in the support process in an effort to expand the deployment of broadband in rural areas. The Commission further seeks comment on whether a state commission may lose jurisdiction over carriers awarded support through the CAF competitive auction process and the Remote Areas Fund if it fails to act on a petition for ETC status within 60 days.[55]

The ARC does not dispute that there may be value in streamlining the ETC application process, but it is critically important that the State Commission retain jurisdiction over ETCs providing local voice service.[56] State commissions play an important role in consumer protection and public safety. Additionally, imposing lighter

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[54] *Omnibus Order* at para.180.

[55] *Omnibus Order* at para. 182.

[56] *See FCC Needs to Improve Oversight of Wireless Phone Service*, Government Accountability Office, GAO-10-34 (Nov. 2009) at 14, *available at* http://www.gao.gov/new.items/d1034.pdf ("Representatives of state agencies and various consumer and industry associations we interviewed expressed concern to us that many of the actions the industry has taken to address consumers' concerns are voluntary and have not effectively addressed some major consumer concerns. For example, officials from some state public utility commissions indicated that there are no data to support the effectiveness of the wireless industry's voluntary code and that this code lacks the level of oversight that state agencies can offer.").

obligation on some ETCs would create an inequitable dynamic for the provision of local service. ETCs currently receiving high cost support shoulder an increasing regulatory burden while support diminishes.[57] ARC members support streamlining new and existing reporting obligations. Even if state commissions opt out of designating ETCs, they should retain jurisdiction over traditionally intrastate matters.[58]

The Commission seeks comment regarding the sunset of ETC designations following the expiration of CAF Phase II or Remote Areas Funding.[59] The Commission wonders if it is consistent with the Act to sunset ETC obligations once support has expired. The Commission also seeks comment regarding whether carriers be required to maintain ETC for lifeline only.[60]

The ARC believes that rational regulation would excuse ETCs who no longer receive high cost support. It is important for new entrants and incumbents be treated equally, but if an ETC loses support, either because it expired or it is denied due to a competing carrier, the ETC should not be held to future ETC obligations and reporting requirements. The ARC argues that it should ultimately be the ETC's discretion whether

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[57] *See ARC USF Comments* at 16 ("It defies public policy to impose additional administrative obligations to retain necessary support at the same time the Commission is decreasing critical support of operations expenses. The burden on small, rural companies is already difficult to manage. There is simply no margin or budget for more paperwork. Further loss of high cost support may jeopardize the maintenance of existing network infrastructure."); *see generally* 47 C.F.R. § 54.313.

[58] *See* 47 U.S.C. § 152(b) (reserving jurisdiction for the states over intrastate communication).

[59] *Omnibus Order* at para. 184.

[60] *Omnibus Order* at para. 184.

or not to retain its ETC status if it loses high cost support and only provides lifeline services.

VI. The Phase II Transition Must Protect Broadband In Rural America.

The Commission poses the question: "Should we refocus our vision for the Remote Areas Fund to preserve voice service for residential consumers in those price cap areas that do not have adequate signal strength for mobile service to be a reliable alternative?"[61] The Remote Areas Fund was originally conceived as a mechanism to fund the highest cost areas of the nation.[62] It "reflects our commitment to ensuring that Americans living in the most remote areas of the nation, where the cost of deploying wireline or cellular terrestrial broadband technologies is extremely high, can obtain affordable broadband through alternative technology platforms."[63] Alaska regulators and carriers, including the ARC, have created a strong record that alternative technology platforms, such as satellite or unlicensed wireless, are unavailable and ineffective in Remote Alaska.[64]

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[61] *Omnibus Order* at para. 194.

[62] *Transformation Order* at para. 533.

[63] *Transformation Order* at para. 533.

[64] *See Comments of the Regulatory Commission of Alaska*, 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 (Jan. 18, 2012) ("*RCA Comments II*") at 19 ("Funding for middle mile infrastructure is essential to deployment of broadband in Alaska."); *ARC USF Comments* at 4-5 ("Access to Affordable Middle Mile is Critical to Extend Broadband into Remote Areas of Alaska…The CAF Order recognizes that many areas of Alaska lack the viable backhaul options necessary to provide broadband services."); *ACS USF Comments* at 8 ("The Commission's model ignores the costs of extremely long haul middle mile transport in Alaska, especially by satellite and undersea cable, which are necessary to support delivery of the broadband speeds mandated by the Commission."); *GCI Comments* at 28 ("As discussed above, middle-mile costs will be a

The ARC has consistently urged the Commission to expand its vision of the Remote Areas Fund in Alaska.[65] Limiting the Remote Areas Fund to serving a sprinkle of people in the very remote areas ignores the reality of Alaska and the many villages and communities that cannot take advantage of consumer satellite services due to geography and topography.[66] The ARC believes the Remote Areas Fund should be used, at least in part, to make much needed infrastructure investments in Remote Alaska.[67] Capital investment in terrestrial network infrastructure is critical to bridging the digital divide in Alaska and other rural areas of the nation.

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significant (but not the only) component of the high costs of delivering any type of broadband – whether fixed or mobile – to Remote Alaska…middle mile is an essential component of providing affordable and reasonably comparable broadband services to rural Alaska, and of creating a communications infrastructure that can support critical public health, education and safety needs.”).

[65] *See ARC RAF Comments* at 20 (“The ARC has always understood the RAF to be primarily envisioned as one-time support awards over several years aimed at “catching up” telecommunications infrastructure in remote places where building facilities is unlikely to be profitable. A nondiscriminatory, statewide middle mile solution from the RAF would better serve customer interests in Alaska than would RAF support on a carrier-by-carrier or individual consumer basis. The ARC urges the Commission to maintain CAF support to individual companies while directing RAF funding towards large-scale deployment of terrestrial middle mile in Alaska.”).

[66] *See ARC RAF Comments* at 26 (“Ice, snow, high winds, and other harsh winter weather in Alaska will make satellite installation at customer homes so unsafe as to be considered impossible for six months out of the year. Alaska’s rugged landscape can interfere with a clear signal—mountains and even trees can completely block the satellite beam in particular locations. Customers may not know whether or not they can reach the satellite signal’s coverage until after they install satellite equipment and forego other service opportunities.”).

[67] *See ARC RAF Comments* at 4 (“Rather than satellite, the primary need for RAF funding in Alaska is for build out of middle mile infrastructure. For Alaska, an annual “subsidy” directed at building terrestrial middle mile will be infinitely more effective than individual consumer subsidies for satellite, which will never provide Alaskans the speeds and reliability necessary to meet the Commission’s universal service goals.”).

The Commission's current endeavor to reimagine the Remote Areas Fund does not address the issues raised by Alaska carriers and deepens concerns already expressed by several carriers.[68] The Commission's proposal to limit the Remote Areas Fund to price cap areas or using the availability of a mobile solution to disqualify carriers from participation is troubling.[69] The ARC reminds the Commission that even where there is a mobile solution, it very likely depends upon the underlying wireline network to complete calls and perform backhaul functions.[70] If the Commission intends to extend the scope of the Remote Areas Fund, it should also increase the budget accordingly. Many carriers have expressed concern that the $100M budget is inadequate to address the needs of the highest cost areas.[71] Expanding the scope of the Fund requires the Commission to reassess the financial commitment it is willing to make to Remote Areas. Consumers in

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[68] *See supra* fn. 64.

[69] *Omnibus Order* at para. 194.

[70] *See supra* fn. 20; *see also ARC ATC Comments* at 10 ("The ARC believes that the extension of mobile technology should not displace essential support for construction of terrestrial middle mile. Both fixed and mobile broadband depend on the construction and cost-based access to extensive middle mile facilities.")

[71] *See, e.g.*, *Comments of the Blooston Rural Carriers*, Connect America Fund, *et al.*, WC Docket No. 10-90, before the FCC (Feb. 19, 2013) at 2 ("Since the Commission is in no position to provide Remote Areas Funding for price cap areas through a model anytime in the near future, proposals for rural ROR LEC areas could be requested before the end of 2013 and the entire $100 million in funding for this year could be designated for rural ROR LEC areas."); *see also 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*, Connect America Fund, WC Docket No. 10-90, Docket No. 05-337, before the FCC (July 9, 2012) at 4-5 ("If a cost model is used to define these portions of RoR service areas, then substantial portions of those service areas are likely to become ineligible for normal support mechanisms other than the RAF. Nevertheless, these extremely high cost areas are generally areas where RoR carriers have previously invested and where customers are currently being served with broadband. Thus, the risk for RoR areas includes a substantial risk of eliminating sufficient support for existing services.").

these areas are not less deserving of advanced telecommunications services than those living in the most densely populated cities.[72] The ARC could support an expansion of the mission of the Remote Areas Fund if it included a corresponding increase in budget.

VII. Mobility Fund Phase II Is Critical to Extending Services to Rural and Remote Areas.

The Commission proposes to target the mobility funds set aside for Phase II to "preserve and extend service in those areas that will not be served by the market without governmental support."[73] The Commission seeks to direct support to areas that need ongoing support rather than divert funding toward areas that would be able to attract service providers absent federal support.[74]

The ARC supports the Commission's proposal in theory. Rural and Remote Alaska are places that would not be served absent ongoing support.[75] "Created in 1997, the FCC's Universal Service Fund (USF) system has played perhaps the biggest role to date in funding the development of telecommunications and broadband systems/infrastructure throughout Alaska."[76] The Commission's proposal lacks

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[72] *Transformation Order* at para. 5 ("The universal service challenge of our time is to ensure that all Americans are served by networks that support high-speed Internet access—in addition to basic voice service—where they live, work, and travel.")

[73] *Omnibus Order* at para. 239.

[74] *Omnibus Order* at para. 239.

[75] *See Comments of the Alaska Rural Coalition*, Connect America Fund, WC Docket No. 10-90, before the FCC (Mar. 31, 2014) ("*ARC CAF Comments*") at 17 ("High-cost support is necessary to carriers in rural areas not to build out future networks, but to maintain existing infrastructure, and rates for rural customers. Absent high-cost support, carriers who already serve rural areas will not be able to sustain the services they already provide, and telecommunications deployment in rural areas will actually slide backwards.").

[76] *Alaska Broadband Task Force Report* at 37.

important details. Promoting mobile broadband is particularly important in Alaska due to the harsh climate and sparse population. Public safety is a critical function provided by mobile networks.[77]

The Commission recognizes the need and desire of carriers to extend wireless service through rural and Remote areas.[78] The Commission considers wireless service, including mobile broadband to be an important part of its universal service mission.[79] The Commission proposes to focus competitive bidding for the Mobility Fund Phase II support on extending 4G LTE to areas that will not have it from Verizon or AT&T.[80]

The ARC believes the majority of Alaska will be eligible to participate in the auction process under the Commission's proposal.[81] However, the existing terrestrial middle mile network in Alaska that extends beyond the main road systems is inadequate or nonexistent to support the transport of 4G LTE to Remote Alaska.[82] "As it considers recommendations to further promote broadband deployment, and in particular how to reform universal service support to do so, the Federal Communications Commission

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[77] *See* Ryan Hallahan and Jon M. Peha, *Policies for Public Safety Use of Commercial Wireless Networks*, 38th Telecommunications Policy Research Conference (Oct. 2010), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1989600 ("Wireless broadband networks present a unique opportunity to revolutionize the way public safety responds to emergencies, bringing a number of new and important applications to first responders who previously had to rely on only narrowband voice.").

[78] *Omnibus Order* at para. 241.

[79] *Omnibus Order* at para. 241.

[80] *Omnibus Order* at para. 241.

[81] *See, generally*, National Telecommunications & Information Administration, *National Broadband Map*, *available at* http://www.broadbandmap.gov/technology.

[82] *Omnibus Order* at para. 242.

should take care not to undermine the progress being made in under-deployed tribal land areas such as Alaska, which is supported by existing universal service mechanisms."[83]

Some Alaska carriers have participated in Verizon's Rural LTE Program.[84] The program allows rural carriers to benefit from Verizon's advanced technology. Wireless carriers participating in the Verizon LTE program may lease upper c-block 700 MHz spectrum from Verizon. Wireless service expanded in Alaska due to the availability of federal support. Absent that support, it may be increasingly difficult to maintain, let alone expand, existing service, even in those service areas participating in the Verizon program. The ARC respectfully suggests that unless Verizon is actively offering 4G LTE in a serving area directly to retail customers, that area should be eligible to participate in the Mobility Fund Phase II competitive auction, even if a carrier in that territory has participated in the Verizon Rural LTE Program.

The Commission seeks comment and data regarding the allocation of the existing mobility support received by CETCs.[85] The Commission notes that approximately $71M of the $400M disbursed annually goes to carriers serving Remote Alaska.[86] The

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[83] Christopher Nierman *et al.*, *Middle-Mile is Missing Link for Broadband Plan*, Benton Foundation (Jan. 29, 2010), available at http://benton.org/node/31739.

[84] *See, e.g.*, Robin Nicol, *LTE in Rural America Continues to Grow*, Verizon (May 30, 2014), *available at* http://www.verizonwireless.com/news/article/2014/05/lte-rural-america-continues-to-grow.html ("Ketchikan Public Utilities (KPU), in April, became the 18th participant in the program to launch its 4G LTE network when it went live in Ketchikan, Alaska, a major cruise ship port. KPU is the third rural LRA participant in Alaska to launch high-speed wireless broadband service; Matanuska Telephone Association and Copper Valley Telecom networks became operational last year.").

[85] *Omnibus Order* at para. 244.

[86] *Omnibus Order* at fn. 449.

Commission argues that the current funding is not well targeted.[87] The ARC disagrees with this premise, and notes that the Commission's funding has benefitted consumers by increasing consumer choice.

Without significant investment in middle mile infrastructure, Remote Alaska is unlikely to deploy 4G LTE at anything close to the pace experienced in the Lower 48.[88] "Planning for Alaska's broadband future is imperative because the state lags in adequate statewide infrastructure."[89] A December 2012 "State Broadband Index" developed by TechNet ranks Alaska 49th of all 50 states in broadband adoption, network quality, and economic structure.[90] Even if the local wireless network is capable of 4G service without adequate backhaul that level of service is virtually impossible when constrained by satellite backhaul.[91]

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[87] *Omnibus Order* at para. 243.

[88] *See Alaska Broadband Task Force Report* at 28 ("Mobile, or wireless broadband, is an attractive option, but an investment in new cell towers and connecting middle mile transport networks would have to be made… The total number of cell sites in Alaska needed to provide mobile broadband service (excluding those that already provide mobile broadband service) would be 968 (511 upgrades+ 321 new sites+ 136 existing cell sites). Even that deployment would leave about 1,900 residents unserved by wireless broadband. The cost of providing mobile broadband service to all of these targeted areas in Alaska is estimated to be approximately $596 million, including capital costs and the present value of five years of operations, maintenance, and backhaul costs.").

[89] *Alaska Broadband Task Force Report* at 4.

[90] *Alaska Broadband Task Force Report* at 4 (*citing* State Broadband Index, http://www.technet.org/technet-state-by-state-broadband-report/).

[91] *See ARC USF Comments* at 25 ("Satellite service is notoriously unreliable in Alaska for many reasons including inclement weather and geographic limitations based on line of sight.").

The Commission intends to resize the Mobility Fund based on its proposed spending priorities.[92] It seeks comment on whether or not the allocation to the Tribal Mobility Fund should similarly be reevaluated.[93] Currently, the Commission has allocated at least $100M to the Tribal Mobility Fund.[94] The Commission recognizes the continuing challenge of developing 4G LTE services on Tribal Lands, including Alaska.[95] The Commission seeks comment on whether or not to award $100M through a competitive auction process to support mobility funding on Tribal Lands.[96]

The ARC strongly supports the Commission's proposal to allocate $100M to support mobility services on Tribal Lands, including Remote Alaska.[97] Alaska carriers have demonstrated the high cost of deploying wireless in Remote Alaska.[98] The Commission recognized the increased cost of serving tribal lands, including:

> (1) The lack of basic infrastructure in many tribal communities; (2) a high concentration of low-income individuals with few business subscribers; (3) cultural and language barriers where carriers serving a tribal community may lack

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[92] *Omnibus Order* at para. 243.

[93] *Omnibus Order* at para. 245.

[94] *Omnibus Order* at para. 245. *See also Transformation Order* at para. 485.

[95] *Omnibus Order* at para. 245.

[96] *Omnibus Order* at para. 245.

[97] *See ARC Tribal Mobility Comments* at 4 ("The Commission has recognized that "infrastructure generally is less developed on Tribal lands, particularly in Alaska." The cost of deploying mobile services in these areas of Alaska will be considerably greater because providers in the state face significantly higher costs for both ongoing operations and construction than do providers in the rest of the nation. The ARC respectfully urges the Commission to account for Alaska's high costs and current lack of infrastructure, in particular the absence of widespread, affordable, and robust middle mile networks, when determining the structure and design of the Tribal Mobility Fund.").

[98] Letter from John T. Nakahata to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (Filed Jan. 25, 2013).

> familiarity with the Native language and customs of that community; (4) the process of obtaining access to rights-of-way on tribal lands where tribal authorities control such access; and (5) jurisdictional issues that may arise where there are questions concerning whether a state may assert jurisdiction over the provision of telecommunications services on tribal lands.[99]

It is critical to provide federal support to develop broadband, both terrestrial and mobile, on Tribal Lands.[100] The Commission recognized in the *Transformation Order* that without significant support, Tribal Lands would forever be on the wrong side of the digital divide.[101] The ARC believes the Commission must stay the course and deliver on the promise of robust broadband on Tribal Lands.

Verizon has begun to deploy some infrastructure on Tribal Lands in Alaska, but deployment is in the most populous areas to date.[102] The ARC believes it is prudent to provide support to Tribal Lands as soon as possible, and should take steps to make the

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[99] Transformation Order at para. 482 (quoting Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12,208, 12,226, para. 32 (2000) (USF Twelfth Report and Order)).

[100] *Transformation Order* at para. 479 ("[T]he Commission acknowledged the relatively low level of telecommunications deployment on Tribal lands and the distinct challenges in bringing connectivity to these areas. The Commission observed that communities on Tribal lands have historically had less access to telecommunications services than any other segment of the population. The Mobility Fund NPRM also noted that Tribal lands are often in rural, high-cost areas, and present distinct obstacles to the deployment of broadband infrastructure.").

[101] *Transformation Order* at para. 479 ("The Commission observed that greater financial support therefore may be needed in order to ensure the availability of broadband in Tribal lands.").

[102] *See Alaska Broadband Task Force Report* at 28 ("Verizon unveiled its new 4G LTE network in July and has invested more than $110 million in its Alaska operations. The network, however, utilizes existing infrastructure, and the coverage area extends from Anchorage to Fairbanks, North Pole, Juneau, Eagle River, and the Matanuska-Susitna region.").

auction process open to smaller carriers serving Tribal Lands by reassessing such requirements as the irrevocable line of credit that are barriers to their participation[103] .

The Commission proposes to reallocate funds that were originally intended for the Mobility Fund Phase I but ultimately undisbursed and the downsized Mobility Fund Phase II to the Remote Areas Fund.[104] The Commission proposes to allocate the funding to "provide one-time support to those providers willing to extend mobile LTE to eligible unserved areas."[105]

The ARC strongly supports the allocation of additional funding to the Remote Areas Fund.[106] Several carriers serving potentially eligible areas across the nation have expressed concern about the underfunding of the Remote Areas Fund.[107] As the

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[103] *Omnibus Order* at para. 245.

[104] *Omnibus Order* at para. 246.

[105] *Omnibus Order* at para. 247.

[106] *See ARC RAF Comments* at 9-10 ("The ARC advocates that the Commission delegate $25 million per year for at least five years to construct middle mile infrastructure in Alaska. A twenty percent investment would demonstrate the Commission's commitment to real progress 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.").

[107] *Comments of the Blooston Rural Carriers*, Connect America Fund, *et al.*, WC Docket No. 10-90, before the FCC (Feb. 19, 2013) at 2 ("Since the Commission is in no position to provide Remote Areas Funding for price cap areas through a model anytime in the near future, proposals for rural ROR LEC areas could be requested before the end of 2013 and the entire $100 million in funding for this year could be designated for rural ROR LEC areas."); *see also 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*, Connect America Fund, WC Docket No. 10-90, Docket No. 05-337, before the FCC (July 9, 2012) at 4-5 ("If a cost model is used to define these portions of RoR service areas, then substantial portions of those service areas are likely to become ineligible for normal support mechanisms other than the RAF. Nevertheless, these extremely high cost areas are generally areas where RoR carriers have previously invested and where customers are currently being served with broadband. Thus, the risk for RoR areas includes a substantial risk of eliminating sufficient support for existing services.").

Commission has continued to evaluate the Connect America Fund, it has allocated an increasing pool of consumers to the Remote Areas Fund, intended to support the very highest cost areas to serve. The ARC encourages the Commission to not limit any additional Remote Areas Fund money to just the deployment of LTE, but also allow it to be used for middle mile networks that support terrestrial broadband in rural areas.

VIII. Phase-down of Identical Support.

Providing wireless service in Alaska is a very expensive proposition due to its extreme climate, inhospitable topography and low population density spread out over an enormous geographic footprint.[108] "We appreciate and recognize that Alaska faces uniquely challenging operating conditions, and agree that national solutions may require modification to serve the public interest in Alaska."[109] Wireless service plays a vital role in the quality of life and the public safety in Remote Alaska.[110]

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[108] *See, e.g.*, See, e.g., *Reply Comments of the Alaska Rural Coalition*, WC Docket No. 10-90, WC Docket No. 05-337, before the FCC (July 23, 2012) ("ARC Cost Model Comments") at 2-3 ("The ARC urges the Commission to specifically account for the limitations of Alaska's current broadband infrastructure, in particular the absence of widespread, affordable, and robust middle mile networks, when determining high-cost support for carriers serving Alaska"); *see also ARC USF Comments* at 4-5 ("Access to Affordable Middle Mile is Critical to Extend Broadband into Remote Areas of Alaska.").

[109] *Transformation Order* at para. 507.

[110] *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, before the FCC (July 5, 2013) 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 ARC ATC 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.").

The commission delayed the phase down of identical support in Alaska.[111] As a result, Alaska CETCs have continued to report line counts to USAC and the Commission.[112] The Commission now proposes to freeze the total amount of CETC support received by Alaska carriers.[113] The Commission notes the unusual line count issues that it has addressed related to Alaska.[114]

The ARC fully supports the Commission's proposal to freeze support for CETCs serving Remote Alaska.[115] Although some carriers in Alaska may benefit from the ongoing reporting of line counts,[116] as a whole freezing support or line counts brings much needed stability to the Alaska wireless market. Specifically, the ARC supports the freeze of line counts as of a date certain, such as December 31, 2014.[117]

The Commission renews its proposal to freeze Alaska support only until a date certain or a regulatory trigger.[118] The Commission proposes to freeze existing support levels for wireless CETCs serving Remote Alaska until ongoing support for Mobility Fund Phase II or Tribal Mobility Phase II is awarded or distributed, whichever date is

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[111] *Transformation Order* at para. 542.

[112] *Omnibus Order* at para. 255.

[113] *Omnibus Order* at para. 256.

[114] *Omnibus Order* at para 256; *see, e.g.*, *Bristol Bay Partnership Petition for Waiver of the Federal Communication Commission's Rules Concerning the Administration of the Universal Service Fund*, CC Docket No. 96-45, Order, 22 FCC Rcd 21500, 21501-02, para. 5 (Wireline Comp. Bur. 2007).

[115] The ARC considers and understands the Commission's proposal to include any carrier now receiving frozen CETC support. *Transformation Order* at para. 519.

[116] For example, Ketchikan Public Utilities is currently rolling out its wireless service. It would benefit from the ability to accumulate additional customers.

[117] The ARC would also support a later date certain, such as June 30, 2014.

[118] *Omnibus Order* at para. 257.

later.[119] Upon that date, the phase down would commence as originally intended.[120] The Commission seeks comment on this proposal.[121] The Commission additionally seeks comment on any alternative proposals.[122]

The ARC appreciates the Commission's consideration of wireless service in Alaska. Wireless service brings substantial improvements in the quality of life for all residents, including Native Alaskans many of whom maintain a subsistence lifestyle.[123] The value of the enhanced umbrella of public safety provided by advanced wireless service in Remote Alaska cannot be understated.[124] The ARC supports the Commission's freeze as a short term solution to maintain wireless service. For the long

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[119] *Omnibus Order* at para. 257.

[120] *Omnibus Order* at para. 257. CETCs will receive 80 percent baseline support in the first year following the award/distribution of Mobility Fund Phase II or Tribal Mobility Phase II funds; 60 percent of the baseline in the second year; 40 percent of the baseline in the third year; and 20 percent of the baseline in the fourth year. *Transformation Order* at para. 529.

[121] *Omnibus Order* at para. 257.

[122] *Omnibus Order* at para. 257.

[123] *See RCA Comments II* at 5 ("Yet there is no place in America that can benefit more from the promise of advanced telecommunications. Broadband can make a difference to the remote parts of Alaska beyond what it can anywhere else in the country. Broadband is the modern thoroughfare of Alaska's future. It will allow a medical doctor to traverse the wilderness between Anchorage and Kotzebue in moments. It will allow an Alaska Native to work for a California high technology firm without ever leaving his subsistence lifestyle behind. It will allow economic development to flow freely between the world outside and our rural communities.").

[124] *See ARC ATC 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.").

term, however, the ARC urges the Commission to consider an alternative path to a phase down of support.[125]

The ARC concurs with GCI[126] that a longer term solution is critical to maintaining existing wireless service, let alone extending 4G LTE service to Remote Alaska.[127] The GCI proposal suggests that the Commission remove Alaska from the Mobility and Tribal Mobility competitive auctions and establish a separate Remote Alaska Mobility Fund.[128] The ARC agrees with Alaska industry and regulators that it is highly unlikely that Alaska wireless carriers can successfully compete in a national auction for adequate funding.[129]

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[125] *See* John T. Nakahata, Counsel to General Communication, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 et al. (filed Apr. 16, 2014) ("*GCI Proposal*") (proposing new transition plan for Alaska that would, among other things, remove Alaska from Mobility Fund Phase II and Tribal Mobility Fund Phase II and instead establish a separate Remote Alaska Fund).

[126] *See generally*, *GCI Proposal*, *supra* at fn. 124.

[127] *Omnibus Order* at paras. 238-242.

[128] *See GCI Proposal* at 3 ("Remove Alaska from Mobility Fund Phase II and Tribal Mobility Fund Phase II and establish a separate Remote Alaska Fund into which all Alaska CETC support migrates over time.").

[129] *See ARC Tribal Mobility Comments* at 7 ("The design of the Tribal Mobility Phase I auction forces carriers to compete for support not only against other carriers in the same area, but also against carriers bidding for support in other areas nationwide. 16 This approach is a losing game for Alaska, since its costs are so much higher and population is so much lower than the rest of the Lower 48. The per-unit cost of mobile telecommunications deployment in Alaska will always be substantially higher than the per-unit cost for the same services in the contiguous United States. The ARC therefore has serious concerns about whether or not Alaska carriers could successfully bid for Tribal Mobility Phase I support against carriers providing similar services in areas with higher populations and lower costs of construction and service."); *RCA Comments II* at 4-5 ("Alaskans may be left behind by the FCC's reforms to universal service, which do not adequately consider our state's unique challenges. The FCC has heard it many times: Alaska is different. Our vast size, small population, extreme weather and landscapes, and high costs have been described in numerous filings."); *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

It is critical to secure adequate funding for service before arguing issues of allocation of those funds and which carrier is better situated to provide service on a census block or census tract basis. Our state desperately needs stability in its high cost funding. The ARC joins Alaska industry in urging the Commission to invest in a long term solution.

If the Commission declines to accept the GCI Proposal, the ARC suggests in the alternative that the Commission consider a longer term freeze of support. The ARC believes a 10 year freeze would provide adequate financial support to enable additional investment to promote mobile broadband in Alaska. A straight freeze of funding would be a more easily administered system than the GCI proposal. The ARC supports either proposal as a means of providing critical funding to maintaining and expanding wireless infrastructure in Alaska.

IX. Reforms in Rate-of-Return Study Areas Will Determine Whether Rural and Remote Areas Will Breech the Digital Divide.

Rate of return carriers serve the least populated, highest cost areas of the Nation.[130] The Commission has acknowledged that "broadband has gone from being a luxury to a necessity for full participation in our economy and society."[131] The ARC appreciates that

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critical to most telecommunications deployment, such as a road system and an intertied power grid.").

[130] Broadband Availability: Beyond the Rural/Urban Divide. (2013). Available at http://www.ntia.doc.gov/files/ntia/publications/broadband_availability_rural_urban_june_2011_final.pdf.

[131] *See* http://www.fcc.gov/encyclopedia/connecting-america.

the Commission also recognizes that extending those benefits to all Americans is a critical function of universal service.[132]

A. Near-Term Reforms for Rate of Return Carriers.

The Commission expresses continuing concern about the "race to the top" incentives for network investment.[133] The Commission proposes several near term reforms to address what it sees as an inappropriate investment incentive for rate of return carriers.

The Commission proposes a new rule that after a date certain, no new investment may be recovered through HCLS and ICLS when such investment occurs in areas that are already served by a qualifying competitor.[134] The Commission suggests that no new investment in those areas should be recovered after a date certain, perhaps December 31, 2014.[135] The ARC believes that there should be a 100% overlap threshold for the ILEC's study area before new investment is not recoverable.[136] There are too many factors regarding investment decisions to impose this blanket approach. The ARC suspects that in practice the Commission's proposed rule limiting the recovery of new investment

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[132] *Omnibus Order* at para. 10 ("We strive to adapt our universal service reforms to ensure those living in high-cost areas have access to services that are reasonably comparable to services offered in urban areas.").

[133] *Omnibus Order* at para. 259.

[134] *Omnibus Order* at para. 263.

[135] *Omnibus Order* at para. 263.

[136] *See ARC USF Comments* at 9 ("The ARC strongly believes the Commission should only preclude ETC funding in those cases where the unsubsidized competitor demonstrates landline facilities and the ability to deliver all services that cover 100% of the residential and business locations in the rate of return carrier's study area. Carving-out a carrier's service area into supported and unsupported markets is an unworkable solution for carriers and will jeopardize service to customers.").

necessary to deploy broadband is particularly difficult for rural carriers who need to capture a larger market share in the more populated areas they serve to adequately cover the high cost of extending service into the less populated areas. To foreclose recovery of broadband investment without a 100 percent overlap will validate any cherry picking that has occurred by competitors and devastate the Commission's goal of rural broadband deployment.[137]

The Commission seeks comment regarding the monitoring and enforcement of its proposal to limit new investment.[138] The Commission seeks to apply the same prohibition on spending that price cap carriers face today regarding the investment in areas served by an unsubsidized carrier.[139] The Commission proposes a new requirement that rate of return carriers be prepared to produce, in audit or other inquiry, asset records and associated receipt to document that new investment for which recover is sought occurred only in census blocks that are not served by other providers.[140]

The ARC opposes the Commission's proposal on several fronts. First, the Commission's proposal would introduce overwhelming new administrative obligations

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[137] *See Geography of Rural Broadband Providers*, Economic Research Service, United States Department of Agriculture, *available at* http://www.ers.usda.gov/ersDownloadHandler.ashx?file=/media/431237/err78d_1_.pdf, at 15 ("Residents in rural areas have always faced higher costs for telecommunication services than those in urban areas and, at least for the foreseeable future, will continue to do so. Economies of scale for the current technology set are at the core of why they face higher costs.").

[138] *Omnibus Order* at para. 264.

[139] *Omnibus Order* at para. 264.

[140] *Omnibus Order* at para. 264.

on small carriers serving high cost areas.[141] In essence small carriers will have to develop two sets of accounting and continuing property records to track the investments, as well as run separate cost studies on their costs to determine support. Support has dwindled in rural areas of the nation at the same time that regulatory burdens have increased.[142] For example, the recovery of Corporate Operations costs are limited, however the direct result of the changes being imposed is to increase Corporate Operations costs for small carriers with no corresponding adjustment to the Corporate Operations cost recovery cap. Increasing accounting requirements and opening another venue of audit and increased scrutiny unrelated to performance appears not only unnecessary, but counterproductive. Second, the ARC continues to oppose the redefinition of unsubsidized carrier to include any competitor, including those subsidized as a CETC, receiving e-rate support or tele-health funding.[143] The ARC believes that excluding support from a carrier because there is an unsubsidized carrier offering service in less than 100% of a service area, especially

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[141] The ARC has previously noted the detrimental effect additional administrative obligations will have on rural carriers. *See ARC USF Comments* at 16 ("It defies public policy to impose additional administrative obligations to retain necessary support at the same time the Commission is decreasing critical support of operations expenses. The burden on small, rural companies is already difficult to manage. There is simply no margin or budget for more paperwork. Further loss of high cost support may jeopardize the maintenance of existing network infrastructure.").

[142] *Id*.

[143] *See Comments of the Alaska Rural Coalition In Support of Alaska Communication Systems, Inc.'s and United States Telecom Association's Oppositions to National Cable & Telecommunications' Application for Review*, Connect America Fund, WC Docket No. 10-90, before the FCC (Jan. 16, 2014) at 13-14 ("The ARC respectfully submits that unless a carrier's receipt of E-rate and Rural Healthcare funding is considered when determining whether an area is served by an unsubsidized carrier for purposes of high-cost support, the public interest will not be served. The Commission cannot silo support between federal universal service programs and pretend that approach has no implications for consumers in the highest cost, most remote locations.").

if the service being offered is substandard or incompatible (wireless versus wireline) is bad public policy and will harm universal service.[144] The ARC cannot support the Commission's proposal because it would be administratively and financially difficult to manage. The wireline network requires consistent and sufficient support to maintain legacy networks depended upon by wireless networks.[145] The ARC would remain concerned but perhaps gain some comfort if the Commission tweaked its proposal to require 100% overlap of an entire study area using wireline service, similar to the original proposal adopted by the Commission in the Transformation Order.[146]

To address anticipated concerns with its proposal, the Commission suggests creating a safe harbor that would allow a rate of return carrier to include new investment in cost studies used to determine HCLS or ICLS if it publicly posts information on its website regarding deployment plans and waits a specified period of time.[147] If no competing carrier gives notice that it serves the area, the rate of return carrier may presume no other carrier serves the area, and the new investment may be eligible for cost recovery.[148]

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[144] *See* Ann Veigle, *Communications Daily: Future of Wireless Linked to Wireline*, US Telecom (Nov. 18, 2010), *available at* http://www.ustelecom.org/blog/communications-daily-future-wireless-linked-wireline ("For high-speed mobile services to work, the connections from cell towers back to the Internet must be upgraded from copper to fiber or high-capacity microwave, requiring a massive investment and deployment program from the wireline industry and others.").

[145] *Id*.

[146] *Transformation Order* at para. 280.

[147] *Omnibus Order* at para. 265.

[148] *Omnibus Order* at para. 265.

The ARC does not believe that the issue is the existence of hypothetical stealthy competitors that the rate of return carrier is unaware of; the issue is that the Commission's definition of competing carriers is so broad that it includes carriers and service that is either subsidized or not comparable. The Commission's proposal deprives the wireline rate of return carrier of the support it needs to maintain its legacy network and continue to deploy broadband services throughout the study area.[149]

B. Longer-Term Reforms for Rate-of-Return Carriers.

The Commission questions the long term viability of the HCLS and ICLS mechanisms as a reliable support mechanism for rate of return carrier network investment.[150] The FCC seeks comment on a rule under which no new investment would be included in cost studies used for the determination of HCLS and ICLS after a date certain.[151] The Commission proposes that current HCLS and ICLS formulas would become mechanisms to recover only past investment occurring prior to that date certain.[152] The Commission encourages stakeholders to consider what a long term Connect America Fund for rate of return territories might include.[153]

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[149] *See FNPRM Reply Comments of GVNW Consulting, Inc. USF Issues*, Connect America Fund, *et al.*, WC Docket No. 10-90, before the FCC (Feb. 17, 2012) at 11 ("It is crucial to remember that rural carriers must construct their networks that have been engineered to meet carrier of last resort requirements in a holistic and integrated fashion. There are no "modules" that can be removed, based on a regulator's view of what constitutes competition in a portion of the service area, without creating harm for the other areas served by the carrier.").

[150] *Omnibus Order* at para. 267.

[151] *Omnibus Order* at para. 267.

[152] *Omnibus Order* at para. 267.

[153] *Omnibus Order* at para. 267.

The ARC appreciates the Commission's acknowledgment that legacy investment must be recoverable to preserve service to rural customers.[154] The ARC remains concerned about the implications of removing loop investment from a known recovery.[155] HCLS and ICLS are imperfect support mechanisms, but the ARC has not seen evidence in Alaska of the waste and abuse prompting the Commission to abandon that mechanism.[156] The Commission remains under a firm legislative directive to provide

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[154] *See Reply Comments of the Alaska Rural Coalition*, Connect America Fund, Universal Service Reform, WC Docket No. 10-90, WT Docket No. 10-208, before the FCC (Jan. 7, 2013) at 4 ("Alaska carriers, including the ARC members, have made substantial investments in second mile and last mile networks in an effort to bring reliable broadband to their customers throughout rural Alaska. The Commission has recognized that failing to adequately fund the middle mile build outs necessary to connect these local networks to the larger Internet backbone risks stranding Alaska carriers' investments and placing Alaska consumers in danger of permanently falling behind.").

[155] *See* JSI Capital Advisors, The Monitor: Communications Industry News and Analyses, *"Saving Rate of Return is Saving RLEC Financial Integrity"* (Jan 25, 2012) , available at http://jsicapitaladvisors.com/monitors/2012/1/25/saving-rate-of-return-is-saving-rlec-financialintegrity.html ("Represcribing the rate of return before the rural telecom industry can fully grasp the extent of the other USF/ICC cuts and caps is at best cruel and at worst utterly unacceptable under the guidelines that USF support be predictable and sufficient…Quite simply, the reforms adopted in November, like regression analysis and bill-and-keep, place RLECs on an extremely uncertain path where existing investments may not be recouped and future investments may be scaled back in light of increased risks and less access to capital. Adding "insult to injury" by prematurely reducing the rate of return could hurl the industry into a free-fall").

[156] Other entities have questioned how significant any abuse of universal service funds was. *See, e.g.*, Letter from Robert F. West to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 *et al.*, at 2 (filed May 10, 2012) ("The fact that the model continues to produce counter-intuitive and surprising results indicates to us that the model-based approach is fundamentally flawed and should be abandoned. We agree with the Commission that universal service funds must be allocated as efficiently as possible, but we have never agreed that there was significant abuse of the existing system of cost recovery.").

sustainable, predictable and sufficient universal service funding.[157] Until a replacement program is in place, it is irresponsible to terminate a predictable support program.[158]

The Commission seeks comment regarding the implications of winding down the HCLS and ICLS mechanisms and replacing it with a Connect American Fund in rate of return areas.[159] Specifically, the Commission seeks input regarding what it should do with the pending rate represcription proceeding.[160]

The ARC believes the rate of return has long been recognized as critical to the survival of rural companies.[161] In Permian Basin Area Rate Cases, the Supreme Court stressed that an agency decision regarding the rate of return should "reasonably be expected to maintain financial integrity, attract necessary capital, and fairly compensate investors for the risks they have assumed, and yet provide appropriate protection to the

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[157] *See* 47 U.S.C. § 254(b)(5).

[158] *See Connect America Fund*, WC Docket No. 10-90, Comments of the Alaska Rural Coalition in Support of Alaska Communications Systems, Inc.'s and United States Telecom Association's Oppositions to National Cable and Telecommunications' Application for Review, before the FCC (Jan. 16, 2014) at 17 ("Alaska's telecommunications market is currently in a state of extreme flux due to rapidly evolving federal service standards and uncertainty of future high-cost support to carriers.").

[159] *Omnibus Order* at para. 268.

[160] *Omnibus Order* at para. 268.

[161] Professor Barbara Cherry & Professor Steven Wildman, *Paper: The Rate of Return for RLECs Must be in the Upper Range for Reform Under the Connect America Fund Order to Ensure Sustainable Policy Goals, available at* http://apps.fcc.gov/ecfs/document/view?id=7021754004 ("The continued availability and affordability of voice and broadband services to certain customers and certain areas may be at risk if the Commission prescribes a rate of return that is too low to attract investment, even if not so low as to be unconstitutionally confiscatory. Faced with such a rate prescription, RLECs may need to make prudent business decisions to discontinue service or defer investments to certain customers and/or areas in order to maintain financial visibility. This may render universal service goals unachievable for those customers and/or areas.").

relevant public interests, both existing and foreseeable."[162] The ARC does not believe that the Connect America Fund support mechanism should displace rate of return funding. Subsequent to resolution of support in rate of return areas, the ARC encourages the Commission to refresh the record on the rate represcription docket and consider the issue in more depth and with greater context.

The Commission proposes to adopt a standalone broadband funding mechanism for rate of return carriers.[163] The standalone broadband mechanism should be designed to (a) calculate supports amounts that remain within the existing budget, (b) distribute support equitably and efficiently, (c) distribute support based on forward-looking costs, and (d) ensure no double recovery occurs by removing the cost associated with the provision of broadband Internet access service from the regulated rate base.[164] The Commission also requests input on whether some of the collected but not yet distributed broadband reserve account should be used to kick start this funding mechanism.[165]

ARC supports a standalone broadband funding mechanism.[166] The record already developed by the Commission suggests that more and more consumers are seeking a

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[162] *Permian Basin Area Rate Cases*, 390 U.S. 747, 792 (1968).

[163] *Omnibus Order* at para. 269.

[164] *Omnibus Order* at para. 269.

[165] *Omnibus Order* at para. 269.

[166] *See Connect America Fund*, WC Docket No. 10-90, Comments of the Alaska Rural Coalition, before the FCC (June 17, 2013) at 5 ("Nowhere is standalone support for broadband-only lines more important than in Alaska. Alaska's network is struggling to add critical middle mile facilities to allow a robust last mile broadband product. In areas where there is adequate connection for broadband-ready last mile networks, the need for high-cost support for standalone broadband service is critical.").

standalone broadband option.[167] Providing a funding mechanism for standalone broadband will create additional stability in rural areas.[168] The ARC urges the Commission to provide support adequate to cover the actual cost of providing a standalone broadband product. The ARC's experience suggests that the costs are similar to providing voice, so the support should not be lower.

C. Voluntary Transition of Rate-of-Return Carriers to Incentive Regulation.

The Commission discusses its proposal to adopt rules to allow rate of return carriers to transition to model-based universal service support.[169] The Commission proposes rules to allow rate of return ETCs to elect to participate in a voluntary, two-phase transition to model-based universal service support, including CAF Phase II.[170] The ARC has concerns about whether a transition to model based support would adequately support either a price cap or a rate of return carrier in Alaska.[171] Alaska

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[167] *See Connect America Fund*, WC Docket No. 10-90, Comments of the Alaska Rural Coalition, before the FCC (June 17, 2013) at 4 ("Many voice customers are "cutting the cord" and solely depending on wireless services, VoIP, Skype, or some other form of nontraditional voice services made possible by a broadband connection.").

[168] Much of the stability in urban areas can be attributed, at least in part, to the emphasis on urban broadband. *See* Columbia Telecommunications Corporation, *The Impact of Braodband Speed and Price on Small Business*, United States Small Business Administration (Nov. 2010), available at http://www.sba.gov/sites/default/files/rs373tot_0.pdf, at 4 ("The United States has invested to achieve telecommunications Universal Service for decades, with a set of priorities based on providing to all Americans adequate services over adequate facilities at reasonable cost. But the focus of the Universal Service programs has been on institutions (through the E-rate program for schools and libraries and the Rural Health Care pilot program for health care entities) and on residential service (through the High-Cost and Low Income programs).").

[169] *Omnibus Order* at para. 276.

[170] *Omnibus Order* at para. 276.

[171] *See Connect America Fund, High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Comments of the Alaska Rural Coalition, before the FCC (Nov. 19, 2012) at 3

carriers have presented evidence that the cost model developed by the Commission fails to adequately address the cost of providing service in Alaska, particularly the lack of middle mile facilities.[172] Due to the high likelihood that an election to cost model support would be imprudent for most Alaska rate of return carriers without significant modifications to the cost model metrics, the ARC will refrain from detailed comments on the Commission's proposal.

The Commission proposes that rate of return carriers electing model-based support would have the option to offer the transmission component of their broadband Internet access service on a deregulated basis.[173] The ARC supports this aspect of the Commission's proposal and encourages the Commission to maintain the maximum amount of regulatory flexibility possible for all rate of return carriers.[174]

D. Support for Middle Mile for Rate of Return Carriers Critical to Closing the Digital Divide.

Alaska contains some of the most remote areas in the country.[175] Providing advanced telecommunications to remote areas is a challenge that must be met for the

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("The ARC remains concerned that the Phase II Cost Model will not provide a workable method of determining high-cost support for Alaska and other high-cost areas.").

[172] *See Connect America Fund, High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Comments of the Alaska Rural Coalition, before the FCC (Nov. 19, 2012) at 5 ("The ACS cost model proposed in the alternative represents an improvement over the nationwide model proposed by the ABC Coalition. However, the ACS model still understates the actual cost of constructing and maintaining telecommunications infrastructure in Remote Alaska, and was designed for larger Price Cap carriers.").

[173] *Omnibus Order* at para. 297.

[174] *Omnibus Order* at para. 297.

[175] *See, e.g., 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

promise of universal service to be honored. The Commission recognizes the unique middle mile challenges preventing full deployment of broadband on Tribal lands, including Remote Alaska.[176] The Commission seeks comment on the ARC middle mile proposal[177] to fund $25M annually for new construction and $10M annually to purchase access to existing middle mile infrastructure.[178]

The ARC obviously continues to advocate for its original proposal to provide substantial support to fund middle mile construction in Alaska.[179] Middle mile infrastructure represents the largest impediment to the deployment of advanced telecommunications services in Remote Alaska.[180] Significant investment must be made,

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discussion when considering the role the Remote Areas Fund will play in Alaska"); *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.").

[176] *Omnibus Order* at para. 302. Alaska has been designated as Tribal lands. *See* 47 C.F.R. §§ 1.2100 and 54.400(e) (defining tribal lands to include "Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act").

[177] *See, generally, ARC CAF Comments*.

[178] *Omnibus Order* at para. 302.

[179] *See ARC RAF Comments* at 5 ("Rather than satellite, the primary need for RAF funding in Alaska is for build out of middle mile infrastructure.").

[180] *See ARC CAF Comments* at 3-4 ("The full benefits of broadband will not be realized in rural Alaska without funding targeted at building out the terrestrial middle mile facilities necessary to support robust and reliable high-speed connections.").

both on the federal and state level, to build the needed network to connect Remote Alaska to the world.[181]

The ARC supports the Commission's proposal to provide one-time support for middle mile support for new middle mile construction in 2015 on Tribal lands.[182] The Commission's proposal allocates only $10M to that project.[183] The ARC believes that this amount of funding is wholly inadequate to make a meaningful difference in the deployment of middle mile infrastructure on Tribal lands. An examination of recent and proposed middle mile projects in Alaska demonstrates that a more significant investment is necessary.[184] Fiber projects presented to the Commission in the recent Rural Broadband Experiment Expressions of Intent almost universally proposed projects in excess of $10M.[185] Broadband and other telecommunications services are especially critical for customers in Remote Alaska, where the benefits of broadband access have the potential to strengthen village economies and overall quality of everyday life.[186] High-

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[181] *See, generally, Alaska Broadband Task Force Report*.

[182] *Omnibus Order* at para. 303.

[183] *Omnibus Order* at para. 303.

[184] GCI's TERRA-SW project took a $44M grant and a $44M loan from the Rural Utility Service to build. See http://terra.gci.com/project.

[185] *See generally* http://www.fcc.gov/encyclopedia/rural-broadband-experiments.

[186] *See Alaska Rural Telehealth Network*, http://www.nrtrc.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

speed broadband access is even more important in Alaska than in the Lower 48 because of many communities' remote, isolated nature.[187]

The Commission also seeks data on the availability of middle mile infrastructure on Tribal lands.[188] The ARC argued in previous comments that middle mile infrastructure is lacking in Alaska.[189] Too many carriers still have to rely on satellite middle mile, which the record demonstrates is wholly inadequate to provide robust broadband.[190] The ARC lacks insight regarding the availability of middle mile on Tribal

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because of travel costs, geographical and weather restrictions, and a general lack of or inability to arrange for clinical coverage during absences." *Id*.

[187] *See RCA Comments II* at 5 ("Yet there is no place in America that can benefit more from the promise of advanced telecommunications. Broadband can make a difference to the remote parts of Alaska beyond what it can anywhere else in the country. Broadband is the modern thoroughfare of Alaska's future. It will allow a medical doctor to traverse the wilderness between Anchorage and Kotzebue in moments. It will allow an Alaska Native to work for a California high technology firm without ever leaving his subsistence lifestyle behind. It will allow economic development to flow freely between the world outside and our rural communities.").

[188] *Omnibus Order* at para. 302.

[189] *ARC RAF Comments* at 1-2 ("The ARC urges the Commission to use the RAF to address Alaska's absence of widespread, affordable, and robust middle mile networks, in order to meet the RAF's goal of providing Americans in our nation's remotest areas with access to reasonably comparable voice and broadband services.").

[190] *See GCI Comments* at fn. 9; *GCI USF Comments* at 5 ("Advanced telemedicine, distance learning, and other many enterprise broadband services will require the deployment of terrestrial middle-mile facilities: satellite services cannot support applications that tolerate only very low latency."); For reasons the ARC has previously explained to the Commission, Alaska's relatively extreme latitude and weather mean that satellite broadband will be an inadequate solution to providing its rural areas broadband service. *See also ARC USF Comments* at 25 ("Satellite service is notoriously unreliable in Alaska for many reasons including inclement weather and geographic limitations based on line of sight.") and at 32 ("Unfortunately, providing the speed, latency or capacity required by the Commission for CAF support for satellite service is not yet capable in most areas of Alaska."); *ACS USF Comments* at 8.

lands in the lower 48, but research suggests that advanced telecommunications services have been slow to be deployed on traditional reservations.[191]

The Commission proposes to award $10M in one-time support for new middle mile construction in 2015 on Tribal Lands through a competitive bidding process.[192] The ARC believes a competitive bidding process limited to Alaska may be an efficient mechanism to award middle mile construction funds. However, the ARC believes that if the Commission opts to use a competitive bidding process for Tribal lands nationwide, it is unlikely that Alaska carriers could effectively compete due to the inherently higher cost of construction of network infrastructure.[193] The U.S. Department of Agriculture's Forest Service emphasized the unique costs of conducting business in Alaska. Specifically, the Forest Service explained that "[i]n order to manage national forests in Alaska to a standard consistent with the rest of the agency, 'Unit Cost Funding' for the Alaska Region must be higher than regions in the Lower 48."[194] Specifically, "[h]igher

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[191] *Transformation Order* at para. 479 ("[T]he Commission acknowledged the relatively low level of telecommunications deployment on Tribal lands and the distinct challenges in bringing connectivity to these areas. The Commission observed that communities on Tribal lands have historically had less access to telecommunications services than any other segment of the population. The Mobility Fund NPRM also noted that Tribal lands are often in rural, high-cost areas, and present distinct obstacles to the deployment of broadband infrastructure.").

[192] *Omnibus Order* at paras. 303-04.

[193] *Competitive Alternatives: KPMG's Guide to International Business Location Costs*, KPMG LLP, at 53 (2012), available at http://www.competitivealternatives.com/reports/2012_compalt_report_vol1_en.pdf; see America's Top States for Business 2011, CNBC (2011), http://www.cnbc.com/id/41666606 (last visited Aug. 3, 2012) (CNBC compared states based on 43 measures of competitiveness. Alaska was ranked 49th worst for doing business.).

[194] Cost of Doing Business in Alaska, U.S. Department of Agriculture – Forest Service, at 1 (2010), available at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5252557.pdf.

salaries, higher cost of materials and supplies, and higher transportation costs all combine to increase our unit costs of providing goods and services to our customers and reduce the portion of our budget we can 'get to the ground.'"[195]

The Commission seeks comment on whether to award a bidding credit to the extent there is a commitment of matching funds from state, Tribal, or other entities, including federal agencies.[196] The Commission chose to implement a bidding credit for the Rural Broadband Experiments competitive auction.[197] Given the diversity of participants in that process, a 25% tribal bidding credit for projects on Tribal lands made a lot of sense as a mechanism to establish a priority.[198] If the Commission decides to use a competitive auction to award middle mile funding, a matching fund bidding credit would not be necessary. Parties with access to matching funds could, and presumably would, submit a lower bid and greatly improve its chances of success. Adding a bidding credit does not seem necessary and may needlessly complicate the administration of the auction. If the Commission opts to include a bidding credit for applicants that can leverage other sources of funding, the ARC believes that loans obtained from the Rural

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[195] Cost of Doing Business in Alaska, U.S. Department of Agriculture – Forest Service, at 1 (2010), available at http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5252557.pdf.

[196] *Omnibus Order* at para. 305.

[197] *Connect America Fund, ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98 (July 14, 2014) ("*Rural Broadband Experiments Order*") at para. 44.

[198] *Rural Broadband Experiments Order* at para. 44. "The credit will effectively reduce the bid amount of qualifying experiments by 25 percent for purposes of comparing it to other bids, thus increasing the likelihood that experiments serving Tribal blocks will receive funding." *Id*.

Utility Service or other rural borrowers should be included as a qualified contribution source.

The Commission seeks comment on whether to support the expansion of existing middle mile construction projects.[199] The Commission proposes not to fund any terrestrial middle mile projects in areas that already have terrestrial middle mile, whether fiber or microwave based.[200] The Commission seeks comment on how to ensure that the funding proposed by the Commission is not used to overbuild existing middle mile facilities.[201]

The ARC believes the Commission should consider the available capacity of an existing project rather than adopting a blanket prohibition against funding an overbuild project. Microwave systems in particular are subject to an exhaustion of capacity.[202] The Commission should likewise consider the availability and cost of the existing middle mile system before deciding that a competing project should not be supported. If no middle mile capacity is available, or the pricing of middle mile makes it unaffordable for edge providers to purchase capacity, essentially no middle mile exists.

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[199] *Omnibus Order* at para. 306.

[200] *Omnibus Order* at para. 306.

[201] *Omnibus Order* at para. 306.

[202] *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) at 9 ("Satellite and microwave facilities have limited capacity to provide middle mile transport.").

The Commission also seeks comment on what lessons might be learned from the BTOP program to inform its decision regarding middle mile funding.[203] The Commission seeks comment on ARC's suggestion that there must be a mechanism that requires recipient to provide access to that middle mile connectivity at a reasonable rate.[204]

The ARC believes the Commission should impose strong non-discrimination and fair pricing requirements on any recipient of middle mile infrastructure support. The ARC has discussed with the Commission the frustration of its members attempting to gain access to the TERRA-SW project in Alaska.[205] The prices charged by GCI for backhaul capacity on the TERRA project exceed the ability of other carriers to pay.[206]

The ARC strongly encourages the Commission to adopt a relevant benchmark to evaluate the fairness of pricing for capacity on a middle mile project funded by the Commission.[207] Where a monopoly system exists, the Commission should impose a cost-

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[203] *Omnibus Order* at para. 306.

[204] *Omnibus Order* at para. 307.

[205] *See* Letter from Shannon M. Heim to Marlene H. Dortch, Secretary, Federal Communications Commission, Connect America Fund, WC Docket No. 10-90 (Filed July 11, 2013).

[206] *See* Letter from Richard R. Cameron to Marlene H. Dortch, Secretary, Federal Communications Commission, Connect America Fund, High Cost Universal Service Support, WC Docket Nos. 10-90, 05-337 (Mar. 28, 2014), at 2 fn. 4 ("A few of the Bush communities included in CAF II are served by GCI's TERRA-Southwest network, constructed with some $88 million in federal Broadband Initiatives Program grant award funds and loan guarantees, but GCI has declined to make affordable wholesale capacity available to unaffiliated providers on these facilities.").

[207] *See* Letter from Shannon M. Heim to Marlene H. Dortch, Secretary, Federal Communications Commission, Connect America Fund, WC Docket No. 10-90 (Filed Apr. 16, 2014).

based rate or in the alternative a state benchmark for access to middle mile transport.[208] The ARC also supports the Commission's proposal to "preclude awardees from charging rates that are higher than the discounted rates available to recipients of funding under the E-rate or rural health care programs."[209]

As with its other high cost programs, the Commission continues to seek to avoid fraud, waste and abuse.[210] The Commission seeks comment on what report requirements should be required for successful applicants. The Commission proposes that applicants must certify its financial and technical capability to build out middle mile infrastructure.[211]

The ARC believes that the Commission should utilize its experience in the upcoming Rural Broadband Experiments to inform its decision on how onerous of oversight to impose on the successful applicants of middle mile funding.[212] The Commission intends to do a technical and financial review post-award in that program and the ARC submits that a similar review would be appropriate in this case for awardees who are not ETCs. For ETCs, the ARC concurs with the Commission's proposal that a simple certification of technical and financial capability would suffice. The ARC believes that the 20% default payment should only be imposed where there is gross

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[208] A national benchmark would likely produce artificially low rates as was seen with the local rate benchmark. The ARC isn't looking to pay an unfair rate, just one that is grounded in a reasonable cost analysis.

[209] *Omnibus Order* at para. 307.

[210] *Omnibus Order* at para. 308.

[211] *Omnibus Order* at para. 308.

[212] *See generally Rural Broadband Experiments Order*.

negligence on the part of the awardee. Constructing middle mile in Alaska is an onerous, time consuming process and some construction delay may occur due to short construction seasons and weather. Adopting a program focused on penalties without regard to cause could create undue hardship on the companies attempting to construct the middle mile infrastructure.

X. Accountability and Oversight.

The Commission instituted a "uniform national framework for accountability" in the Transformation Order.[213] The Commission argued that the universal service program contained significant waste, fraud and abuse, which justified the new regime of accountability.[214] The ARC understands the public policy value in holding support recipients accountable for the funds they receive, but the CAF regime has instituted many new requirements that in their aggregate have burdened small carriers disproportionately and depressed investment in rural broadband.[215] The ARC urges the Commission to impose additional reporting requirements judiciously and balance the benefit and burden of any new requirements.

A. Reasonably Comparable Rates Certification for Broadband Could Create Disproportionate Hardship on Highest Cost Areas.

In the *Transformation* Order, the Commission required CAF recipients to offer voice and broadband services at rates that are reasonably comparable to offerings of

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[213] *Transformation Order* at para. 573.

[214] *Transformation Order* at para. 573. "As noted in the *USF/ICC Transformation NPRM*, audits are an essential tool for the Commission and USAC to ensure program integrity and to detect and deter waste, fraud, and abuse." *Id*.

[215] *See generally* 47 C.F.R. § 54.1007.

comparable services in urban areas.[216] The requirement was implemented for voice services, but has not yet been implemented for broadband service.[217] The Commission now seeks comment on codifying a broadband reasonable comparability certification requirement on all ETCs receiving CAF support.[218] ETCs will have to include a letter with its Form 481 certifying the company's broadband rate is no more than the benchmark set by the Bureau or "is no higher than the non-promotional prices charged for comparable fixed wireline service in urban areas."[219]

The ARC strongly opposes a nationwide broadband benchmark rule that does not take the cost of providing service into account. There is a natural disparity between rural and urban costs to serve and economies of scale. It makes no sense to artificially set rural rates to meet urban rates where there may be inadequate support to achieve artificially low costs. The Commission's proposal contains no accommodation for distinctions based on network availability and type.[220] For example, it will be difficult to provide meaningful broadband over satellite for a price anywhere close to an urban rate.[221] The ARC urges the Commission to set the urban rate on a regional basis, not a national

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[216] *Transformation Order* at paras. 81, 86.

[217] *Omnibus Order* at para. 311.

[218] *Omnibus Order* at para. 313.

[219] *Omnibus Order* at para. 313 (quoting the proposed addition to 47 C.F.R. § 54.313(a)).

[220] *Omnibus Order* at para. 313.

[221] *ACS USF Comments* at 8 ("The Commission's model ignores the costs of extremely long haul middle mile transport in Alaska, especially by satellite and undersea cable, which are necessary to support delivery of the broadband speeds mandated by the Commission.")

standard like local rate floor.[222] Also, the Commission should take into consideration the lack of middle mile capacity and its cost for Remote Alaska, which contrasts sharply with the cost and availability of middle mile available in urban areas of the lower 48. Any other formulation of a broadband benchmark should be a non-starter for rural areas given the likely disruption to investment in the highest cost areas.

B. Reduction in Support for Late Filing.

Current rules penalize a late filer of data or certifications a full quarter, no matter how late the filing (an hour, a day or a month).[223] A carrier must file a waiver to request that the Commission restore the quarter of funding that was withheld.[224] The Commission proposes changing the penalty to an offsetting amount of funding corresponding to the lateness of the filing.[225] For example, if a filing is a day late, the carrier loses a day of funding, 7 days late and the carrier loses 7 days of funding.

The ARC believes the Commission must recognize the onerous and voluminous filings that are required on the state and federal level, which are a particular burden to small carriers with limited staff. An offset of days may result in more appropriate

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[222] *See Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Statement of Commissioner Ajit Pai Approving in Part and Dissenting in Part (June 10, 2014) ("One particular problem is the Commission's reaffirmation of the "rate floor," an unfortunate legacy of the Universal Service Transformation Order. Under that policy, the FCC sets a minimum price that telephone companies can charge their customers for local telephone service—and penalizes those companies that do not comply with this government mandate. And as a result of that policy, over one million rural Americans can expect their local telephone rates to increase by up to 46 percent as the rate floor rises from $14.00 to $20.46 per month.").

[223] *Omnibus Order* at para. 317 (citing 47 C.F.R. §§ 54.313(j), 54.314(d)).

[224] *Omnibus Order* at para. 317.

[225] *Omnibus Order* at paras. 318-19.

penalties, but the Commission should maintain the ability of a carrier to request and receive a waiver. The Commission proposes to cease the practice of providing waivers to parties that commit to implement improved internal controls to ensure compliance.[226] "We do not believe it serves the public interest to absolve an ETC of any consequence when it fails to meet a Commission-mandated requirement merely due to administrative or clerical oversight."[227]

The ARC supports the suggestion that there be a one-time grace period if an ETC misses the filing deadline by only a few days.[228] Small carriers with very small regulatory staffs struggle to meet the ever increasing obligations. Some flexibility is important to maintain equity in the system. The ARC does not believe the proposed grace period should be available one-time only or serve as a replacement of the waiver process. The ARC urges the Commission to leave itself the maximum flexibility to provide equitable solutions. At the time the FCC is heaping reporting requirements on small rural companies and decreasing support, it is very problematic and unfair to take an inflexible approach to missed deadlines.[229] Inequitable results would have no remedy and could have significant unintended consequences.

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[226] *Omnibus Order* at para. 324.

[227] *Omnibus Order* at para. 324

[228] *Omnibus Order* at para. 321.

[229] *See ARC USF Comments* at 16 ("It defies public policy to impose additional administrative obligations to retain necessary support at the same time the Commission is decreasing critical support of operations expenses. The burden on small, rural companies is already difficult to manage. There is simply no margin or budget for more paperwork. Further loss of high cost support may jeopardize the maintenance of existing network infrastructure.").

XI. Conclusion.

The Alaska Rural Coalition remains committed to deploying advanced telecommunications services in Remote Alaska. The ARC and other Alaska carriers have been very vocal advocates that Alaskans need and deserve a fair opportunity to join the rest of the nation in access to robust broadband.[230] The ARC urges the Commission to allocate adequate funding to ensure Alaskans are not left on the wrong side of the digital divide.

Respectfully submitted on this 8th day, August 2014.

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[230] *See ARC Comments* at 13-14; *ACS USF Comments* at 8 ("The Commission's model ignores the costs of extremely long haul middle mile transport in Alaska, especially by satellite and undersea cable, which are necessary to support delivery of the broadband speeds mandated by the Commission."); *GCI Comments* at 28 ("As discussed above, middle-mile costs will be a significant (but not the only) component of the high costs of delivering any type of broadband – whether fixed or mobile – to Remote Alaska…middle mile is an essential component of providing affordable and reasonably comparable broadband services to rural Alaska, and of creating a communications infrastructure that can support critical public health, education and safety needs."); *RCA Comments* at 19 ("Funding for middle mile infrastructure is essential to deployment of broadband in Alaska.").