

**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 Alaska Communications Systems

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Summary

In these comments, Alaska Communications Systems (“ACS”) proposes a framework for its use of CAF Phase II support at the current the \$19.7 million frozen support level offered by the Wireline Competition Bureau (“Bureau”) in connection with its finalization of the Connect America Cost Model (“CAM”) in April 2014. Year after year, the Commission’s broadband performance data consistently show Alaska among the least-served states in the nation, due in part to substantial inherent challenges that providers must overcome in delivering broadband service to those in America’s largest and least densely populated state, as well as downward trend over the past decade in the level of ACS’s federal high cost support. As the largest incumbent local exchange carrier (“ILEC”) in Alaska, ACS therefore strongly supports the Commission’s goal to refocus federal high cost support mechanisms toward broadband deployment. Throughout this proceeding, ACS has sought to shape the Commission’s policies to produce sufficient support for Alaska to enable real, lasting improvements in broadband availability and performance in the state.

ACS continues to believe that the Bureau’s best chance to accomplish this goal was to have incorporated in the CAM the set of specific changes advocated by ACS that would have brought the CAM’s cost results for Alaska more closely in line with the actual forward-looking costs ACS faces. Because the Bureau decided not to do so, ACS believes that the best remaining option is for the Commission to craft a set of broadband deployment commitments that ACS can achieve using CAF Phase II support set at the current frozen \$19.7 million level.

ACS urges the Commission to create deployment commitments for non-CONUS carriers that reflect the individual challenges and support levels available to each. For Alaska, ACS

requests that the Commission adopt broadband deployment requirements for the \$19.7 million in annual CAF Phase II frozen support that include: (1) deployment to 29,418 locations shown as eligible for CAF Phase II funding under the CAM 10/1 Mbps results that are located in census blocks not located in the Alaskan Bush and not served by a wireline qualified competitor; (2) flexibility for ACS to substitute locations in partially served census blocks and other census blocks to the extent described herein, as well as gigabit service to Community Anchor Institutions; (3) the option for ACS to elect to deploy to less than 100 percent of its committed locations, with an attendant reduction of support; (4) a support and buildout term of ten years, with intermediate deployment milestones that reflect the mobilization period ACS will incur at the start of the term of support; (5) a numerical deployment commitment limited to the specified number of funded locations in the state, and (6) recognition that a portion of the support must be spent to cover operating and maintenance expenses for ACS's entire network, which cannot readily be assigned to particular census blocks.

In addition, in areas where ACS ceases to receive federal high cost support, the Commission should relieve ACS of its ETC status, Section 214(a) service discontinuance obligations, and ILEC-specific obligations under Section 251 and 252. In census blocks where the Commission terminates high cost support because of the presence of a "qualified competitor," it should terminate support for ACS and the wireline CETC at the same time, to avoid competitive distortions.

Finally, in any auction following ACS's decision to decline the right of first refusal of CAF Phase II model support, the Commission should reserve Alaska's model-based support for bidders that will serve Alaska, and use the census block as the minimum geographic unit for bidding purposes.

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Comments of Alaska Communications Systems

Alaska Communications Systems (“ACS”)¹ hereby submits these comments in response to the Commission’s recent Further Notice of Proposed Rulemaking (“Further Notice”) in the above-captioned dockets.² In these comments, ACS focuses on the service commitments that should accompany the election by price cap incumbent local exchange carriers (“LECs”) serving areas outside the 48 contiguous states (“non-CONUS” areas) to receive Connect America Fund (“CAF”) Phase II high cost support frozen at historical levels.

Introduction and Background

Since the Commission announced its intention in 2010 to modify the intercarrier compensation and high-cost universal service programs. ACS has been a leader in suggesting

¹ In these comments, “Alaska Communications Systems” signifies the incumbent local exchange carrier (“ILEC”) subsidiaries of Alaska Communications Systems Group, Inc., which include ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, and ACS of the Northland, LLC.

² *Connect America Fund*, WC Docket No. 10-90, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (rel. June 10, 2014).

ways to implement these changes that would have resulted in sufficient support to achieve the Commission's broadband goals in Alaska.

While the Bureau made some adjustments to the Connect America Cost Model ("CAM") in response to ACS's advocacy, it has rejected virtually all of ACS's requests for changes to the CAM or its inputs that would have produced meaningful changes to the CAM outputs and associated support levels. As a result, the CAM today continues to grossly underestimate the cost to deploy broadband in unserved price cap territories in Alaska. Under the most recently released version of the CAM (version 4.1.1), there is no economically sound rationale for accepting model-based support and corresponding build-out commitments in Alaska.³ One significant reason is that the CAM includes within the census blocks that would be covered by the statewide commitment thousands of remote village locations in the Alaskan Bush⁴ that are

³ Also for this reason, the CAM does not reliably identify the census blocks in Alaska where the costs of voice and broadband fall within the eligibility range of CAF Phase II support. The Alaska census blocks included in the Bureau's illustrative CAM v.4.1.1 results have cost profiles that are generally higher than what the CAM estimates. Because the CAM results for Alaska are not an accurate representation of the areas that should be eligible for CAF Phase II support, the Commission should provide ACS with the flexibility, as described herein, to substitute other unserved locations within its service area for those in the census blocks identified in the CAM.

⁴ ACS serves approximately 50 Alaskan "Bush" communities, a larger number than most Alaskan carriers. These Bush communities have populations ranging from fewer than 50 residents in the smallest communities to about 800 people in the largest, and are located along the Aleutian Island chain, in difficult-to-reach areas of Alaska's rocky coast, among the coastal islands of Southeast Alaska, and in the state's largely unpopulated interior. "Bush" communities are isolated geographically from infrastructure resources commonly available elsewhere in the state, and the nation as a whole. Most Bush communities cannot be accessed by road, and are not connected to the state's power grid. To reach these communities, people, as well as goods and services, must arrive by plane, barge, snow machine, all-terrain vehicle, or other off-road transportation means. Communications services in these communities generally depend on satellite, or possibly microwave transport, links to population centers in Anchorage, Fairbanks, or Juneau.

not connected to the state's road system – locations that would cost hundreds of thousands of dollars *each* to link by terrestrial broadband, as well as additional operations and maintenance costs that far exceed those of non-Bush locations. CAM fails to produce sufficient funding for the necessary middle mile transport capacity to support broadband services to all unserved locations in the state, whether at the 4/1 Mbps standard originally adopted by the Commission, or the proposed 10/1 Mbps standard discussed in the Further Notice.

Recognizing that unresolved issues regarding the operation of the CAM in non-CONUS areas, particularly Alaska, would take considerable time to resolve, the Bureau determined, in April 2014⁵ to offer price cap LECs outside the 48 contiguous states the opportunity to elect to continue to receive support at the frozen CAF Phase I level. For the reasons ACS has previously explained in this proceeding, ACS agrees that the CAM produces insufficient support to permit ACS to meet the broadband deployment commitments that would be required in connection with model-based support. Because ACS believes that it is therefore unlikely to be able to accept the right of first refusal of CAF Phase II support, as determined by the CAM, it focuses in these comments on the broadband commitments that should accompany the offer to elect to continue to receive support at the CAF Phase I frozen level.

Discussion

Section VIII.E.3. of the Further Notice focuses specifically on a set of broad questions related to the broadband commitments of carriers serving non-CONUS areas. ACS's comments

⁵ *Connect America* Fund, WC Docket No. 10-90, Report and Order, Da 14-534, 29 FCC Rcd 3964 (Wir. Comp. Bur. 2014), at ¶ 152 (“*CAM Inputs Order*”).

focus on these questions, as well as other issues raised in the Further Notice as they relate specifically to Alaska or other non-CONUS areas in particular.

A. If the Commission Modifies Its Current Frozen Support Obligations, the New Obligations in Non-CONUS Areas Should Be Commensurate with the Support Available

The Commission essentially acknowledges that the CAM fails to accurately reflect the unique conditions in non-CONUS areas.⁶ Because most of ACS's proposed improvements to the CAM's estimates of the costs of deploying voice and broadband service in Alaska have not been adopted, ACS agrees that model-based support and the state-level buildout commitment are not workable in Alaska without significant modifications. Therefore, ACS supports the Bureau's decision to offer non-CONUS carriers the option to elect to continue to receive support at the current frozen level. But, any dollar amount of support – whether set using the model or historical practice – gains meaning only in the context of the service obligation the Commission attaches to it.

In 2011, when the Commission created frozen CAF Phase I support, it required price cap carriers to use an increasing percentage of the support to build and operate broadband-capable networks in areas that are unserved by an unsubsidized competitor.⁷ Starting in 2015, 100 percent of CAF Phase I support must be used in this way. ACS believes that, rather than adopt a new set of obligations for Alaska and other non-CONUS areas the Commission's CAF Phase II broadband policy goals would be well served simply by continuing to enforce the existing rules for those non-CONUS carriers that elect to continue to receive support at the CAF Phase I frozen

⁶ Further Notice at ¶ 201.

⁷ *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663 (2011) at ¶ 150 (“*USF/ICC Transformation Order*”) (subsequent history omitted).

level. The existing performance requirements serve the Communications Act's mandate that support be used for the purpose for which it is intended. Moreover, because the rules associate support with the same study area boundaries that have been employed for decades to track costs and revenues, they do not require that ACS track capital expenditures by census block, which would be highly costly and administratively difficult for ACS to implement, and operating expenses are virtually impossible to track by census block. Accordingly, ACS urges the Commission to consider this solution as the best solution for non-CONUS areas.

If the Commission nevertheless decides to modify the existing performance obligations applicable to frozen support in connection with the start of CAF Phase II, it is essential that the Commission tailor any performance requirements to the frozen support amount available, as well as the deployment challenges facing each non-CONUS carrier.⁸

First, the frozen support amount for each non-CONUS carrier currently varies, in many cases dramatically, from the model-based support projected in the Bureau's estimates:

⁸ In the Further Notice, the Commission seeks comment on whether to "adopt tailored service obligations for each [of the non-CONUS carriers] that chooses to elect frozen support." Further Notice at ¶ 211.

Non-CONUS Company Name	Frozen Support	CAM 4.1.1 Report Version 7.0 4/1 Mbps Deployment (April 2014)	CAM 4.1.1 Report Version 8.0 10/1 Mbps Deployment (July 2014)
ACS	\$19,694,208	\$21,760,729 (+10%)	\$19,343,231 (-1.8%)
Hawaiian Telcom	\$1,968,816	\$4,742,058 (+141%)	\$4,155,853 (+111%)
Puerto Rico Telephone	\$36,053,856	\$7,393,714 (-79%)	\$6,763,251 (-81%)
Vitelco	\$16,360,728	\$3,536,105 (-78%)	\$3,395,323 (-79%)
Micronesian	\$683,364	\$2,694,081 (+294%)	\$2,443,827 (+258%)

In ACS’s case, the frozen support amount is generally comparable to the amount shown in the Bureau’s illustrative CAM results. Thus, for many of the same reasons that ACS is already unable to meet the full CAF Phase II buildout obligation produced by the CAM using the associated support generated by the model, ACS would also be unable to meet that obligation using frozen support. For other non-CONUS carriers, the frozen support amount varies substantially from that based on the CAM results, either higher or lower. It would make no sense for the Commission uniformly to impose precisely the same buildout obligation produced by the CAM regardless of whether the frozen support amount is greater or less than the modeled amount. This is particularly true in light of the fact that the Bureau offered the option to elect frozen support precisely because of lingering questions as to the accuracy and reliability of the CAM in areas outside the lower 48 contiguous states.

Second, each non-CONUS carrier faces a mix of broadband deployment challenges that differs not only from those present in the contiguous states, but also from one another. Among

other challenges, for example, ACS faces the extraordinary costs of deploying new middle mile transport infrastructure with sufficient capacity to carry new broadband data traffic across a widely dispersed service area within a state that encompasses one-sixth of the nation's land area. Complicating this challenge, Alaska's lowest-in-the-nation population density makes terrestrial transport options inefficient, while its extreme northern location limits the performance of satellite-based alternatives (and satellite may or may not meet their performance requirements). Further, as described in ACS's earlier filings in this proceeding, the short construction season in Alaska and the limited pool of qualified network engineers and construction firms with experience in meeting the demands of Alaska's climate drive up costs and limit the pace of broadband deployment. The tropical non-CONUS carriers may face other significant challenges – some similar to one another, some different – that affect the cost and complexity of broadband deployment in their respective service areas, but those challenges differ markedly from those confronting ACS.

B. Under Achievable Conditions, ACS Is Prepared to Deploy Substantial New Broadband Meeting the CAF Phase II Voice and Broadband Standards

In this proceeding, ACS has offered a variety of proposals that it believes would have properly balanced the amount of CAF Phase II support available with the associated broadband deployment obligations, in order to bring meaningful improvements to the availability of broadband service in Alaska. The Commission's broadband reports consistently show Alaska to be among the most underserved states in the nation in terms of broadband performance. Again this year, Commission data show that the percentage of broadband connections in Alaska that deliver downstream speeds of 3 Mbps, 6 Mbps, and 10 Mbps, respectively, are the lowest of any

state in the nation.⁹ This is despite the presence of two competitors – ACS and GCI – throughout large portions of ACS’s service area, and stems, at least in part, from steady declines in the level of high cost universal support that ACS receives. Even before the Commission began the CAF transition, ACS’s high cost universal service support had declined from an average of \$26 million annually for the years 2006 through 2010 to the current frozen support level of approximately \$19.7 million. With inadequate high cost support available, and contrary to the goals of the Commission’s “no barriers” policy,¹⁰ broadband deployment in Alaska has fallen behind that of other high cost areas of the nation.

The Bureau’s decision to offer non-CONUS carriers the option to continue receiving support at the current level their frozen CAF Phase I provides another opportunity to shape a workable solution that will spur broadband deployment and benefit the people of Alaska. To succeed, however, the Commission will need to tailor ACS’s broadband deployment obligations so that they can be achieved within the current support level.

Based on an assessment of the CAM 4.1.1 results, and ACS’s preliminary engineering assessments, ACS offers the following framework for its deployment commitment in Alaska:

⁹ Wireline Competition Bureau, Industry Analysis and Technology Division, *Internet Access Services: Status as of June 30, 2013* (June 25, 2014), at Table 18 (showing that 32.2 percent, 26.4 percent, and 16.5 percent of broadband connections in Alaska deliver at least 3 Mbps, 6 Mbps, and 10 Mbps, respectively).

¹⁰ See, e.g., *Connect America Fund*, WC Docket No. 10-90, Order, DA 13-2101, 28 FCC Rcd 14887 (Wir. Comp. Bur. 2013) (“*Frozen Support Clarification Order*”), at ¶ 10 (“[U]nder the long-standing ‘no barriers’ policy, it has been permissible for more than a decade to use universal service support for mixed-use facilities that can deliver both voice and broadband services, such as the extension of fiber closer to end-user premises or annual maintenance of such fiber.”).

1. ACS Will Commit to Deploy Voice and Broadband to the Non-Bush Locations Eligible For CAF Phase II Support Under CAM 4.1.1 In Census Blocks Not Served by Any “Qualifying Competitor”

With appropriate flexibility and other conditions, as discussed herein, ACS is prepared to commit to deploy broadband meeting the Commissions CAF Phase II standards to all locations identified by the CAM as eligible for CAF Phase II support that are served by the Alaska statewide road system (*i.e.*, not in the Alaska Bush), and not otherwise served by any “qualifying competitor,” as defined in the Further Notice.

ACS has asserted and continues to believe that it would better serve the public interest in Alaska, and be more consistent with federal broadband policy goals, for the Commission to include areas served by GCI in the CAF Phase II support mechanism. As a subsidized wireline voice and broadband competitive provider, GCI is free to offer service only where it deems it economically advantageous to do so, and it bears no particular responsibility to maintain current levels of service after federal high-cost support ceases. To better ensure that the people of Alaska continue to benefit from expanding availability of voice and broadband services meeting the CAF Phase II requirements, ACS believes that the Commission should continue to treat areas served by a wireline subsidized competitor as eligible for CAF Phase II, and also provide sufficient model-based support to enable ACS to meet the broadband deployment commitment required for those areas.

Because the CAM, as ultimately adopted by the Bureau, does not provide sufficient support to realize this outcome, however, ACS is likely to be limited to its current, \$19.7 million frozen support amount. At the proposed level of model-based support for Alaska, in the range of \$19 million to \$21 million, ACS is unable to accept the commitment to deploy broadband to the

roughly 67,000-69,000 locations included in the Bureau's published model results. It is equally unable to accomplish that feat using the similar level of frozen support. And, if the Commission adopts its proposal to exclude areas where GCI operates as a subsidized competitor from CAF Phase II, ACS's analysis indicates that the level of model-based support would drop considerably below the proposed amount shown in the Bureau's model results – an equally untenable result.

The Further Notice proposed that non-CONUS carriers electing to receive CAF Phase II support set at current frozen levels should be required to deploy voice and broadband-capable networks to the number of funded locations identified by the CAM, consistent with the state-level commitments required of carriers receiving model-based support.¹¹ With some modifications and appropriate flexibility,¹² as discussed herein, ACS believes that this may be the best remaining option for the Commission to further its universal service goals in Alaska.

Thus, ACS proposes that, at the \$19.7 million annual level of frozen support over a ten-year term, ACS would deploy broadband meeting the Commission's CAF Phase II standards to all locations identified by the CAM as eligible for CAF Phase II support that are served by the Alaska statewide road system (*i.e.*, not in the Alaska Bush), and not otherwise served by any

¹¹ Further Notice at ¶ 208.

¹² These modifications and flexibility include, for example, among the other components discussed in these comments: (1) removal of the locations in the Alaska Bush from the deployment commitment; (2) the flexibility for ACS to substitute unserved locations from partially-served census blocks and those above the very high cost threshold; (3) the flexibility to substitute, for up to 25 percent of the deployment commitment, unserved locations in census blocks that the CAM regards as below the support threshold; (4) a ten-year term of support; (5) the flexibility to use some CAF Phase II support to meet operating and maintenance expenses for ACS's statewide network; and (6) the flexibility to deploy to only a portion of the committed locations, such as 90 percent, if ACS is unable to meet the full deployment commitment, with an attendant adjustment in its support level.

“qualifying competitor,” as defined in the Further Notice. Based on ACS’s analysis, using the Bureau’s illustrative results for the 10/1 Mbps standard, that commitment would support delivery of voice and broadband meeting the Commission’s CAF Phase II standards to approximately 29,418 eligible customer locations:¹³

	<u>On-Road</u>	<u>Off-Road</u>	<u>Total</u>
Supported Locations CAM 4.1.1 (Version 8.0; 10/1 Service)	64,199	3,766	67,965
Funded Locations in GCI-Served Census Blocks (“CBs”)¹⁴	34,781	0	34,781
Funded Locations in CBs Unserved by GCI	29,418	3,766	33,184

ACS’s commitment would be consistent with the Commission’s proposal to exclude from CAF Phase II eligibility any census block that is shown on the National Broadband Map as served by a “qualifying competitor.”¹⁵ Specifically, the Commission “propose[s] that non-contiguous carriers receiving frozen support must not use such support in any areas where there is a terrestrial provider of fixed residential voice and broadband service that meets our Phase II performance requirements,” regardless of whether that provider is subsidized or unsubsidized.¹⁶ While the level of CAF Phase II support available in Alaska is insufficient in any event for ACS

¹³ *Connect America Fund*, WC Docket No. 10-90, Public Notice, “Wireline Competition Bureau Releases Connect America Cost Model Illustrative Results Using Higher Speed Benchmark,” DA 14-833 (rel. June 17, 2014) (“Illustrative Results v. 8.0,”), at Spreadsheet line 354.

¹⁴ The total number of locations in these census blocks is 198,235.

¹⁵ As discussed below, ACS believes that the Commission should provide flexibility for ACS to substitute locations in such partially served census blocks for those in the eligible census blocks identified by the CAM.

¹⁶ Further Notice at ¶ 207.

to deploy broadband-capable network facilities to serve all of the approximately 67,000 to 69,000 locations shown in the Bureau's CAM 4.1.1 results,¹⁷ ACS would commit, at its current frozen support level, to deploy broadband (and maintain voice service) to the number of funded locations shown in census blocks not served by GCI.

As discussed below in greater detail, the Commission should establish broadband deployment commitments in non-CONUS areas that the recipient commitments can achieve through sustainable investments in capital infrastructure. In particular, it is important to ensure that, following the necessary investment in capital facilities, the recipient carrier will have some portion of the CAF funds remaining, and eligible to meet the costs of operating and maintaining voice and broadband networks both in eligible census blocks and elsewhere.

To determine compliance with this commitment, ACS believes that the Commission should clarify that, if a non-CONUS carrier meets its broadband deployment commitment within the term of support (10 years, as proposed here), it has met its Section 254(e) obligation to use the support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."¹⁸ It should not be required, in certifications to the Commission or state regulators, in a subsequent audit, or otherwise, to demonstrate that it spent all or any particular portion of the support on capital infrastructure. As discussed in greater detail below, some portion of the CAF Phase II frozen support will need to be devoted to operating and maintaining the recipient carrier's whole network, on which delivery of broadband to the covered

¹⁷ Illustrative Results v.8.0; *Connect America Fund*, WC Docket No. 10-90, Public Notice, "Wireline Competition Bureau Releases Results for Adopted Connect America Cost Model," DA 14-559, 29 FCC Rcd 4126 (2014) ("Illustrative Results v. 7.0,"), at Spreadsheet line 354.

¹⁸ 47 U.S.C. § 254(e).

census blocks depends. Because it is virtually impossible in most cases to assign particular operating expenses to particular census blocks, it would be a largely futile exercise to ask CAF Phase II recipients to do so.

a. The Commission Should Exclude Bush Locations From ACS's Frozen Support Broadband Deployment Commitment

The CAM 4.1.1 results include 3,766 locations in small, isolated, and remote Bush villages that are not served by Alaska's road system, let alone sufficient middle mile transport facilities to permit the delivery of broadband meeting the Commission's performance and affordability standards. While ACS desires to serve these areas with broadband, the funding being made available through both the CAM or frozen support alternatives is insufficient to allow ACS to do so. Therefore, ACS believes that these locations should be excluded from any CAF Phase II broadband deployment commitment, whether based on frozen or modeled support levels. As the Further Notice states, "the Bureau recognized that a number of questions remained about the sufficiency of the model-calculated support in some non-contiguous areas."¹⁹ These questions, in particular, centered on "whether the model accurately accounts for wireline terrestrial middle mile costs in Alaska."²⁰

The true cost of serving these communities is so high that the CAM should never have included them within its proposed CAF Phase II service commitment at all. The CAM's faulty treatment of middle mile costs in Alaska – the very same shortcoming that caused the Bureau to

¹⁹ Further Notice at ¶ 201.

²⁰ Further Notice at ¶ 201, n. 397; *CAM Inputs Order* at ¶ 151 ("[Q]uestions have been raised recently specifically about whether the model accurately accounts for wireline terrestrial middle mile costs in Alaska. The Bureau does not expect to be able to resolve such questions quickly.").

offer non-CONUS carriers the option to elect frozen support as an alternative to the model – causes the CAM erroneously to understate the cost of serving thousands of remote Bush locations and draw them implausibly into the Phase II service commitment.

As ACS explained in earlier filings, numerous sources have confirmed that the costs of deploying middle mile transport in the Alaskan Bush make it impossible to deploy voice and broadband meeting the Commission’s CAF Phase II standards – whether at 4/1 Mbps or 10/1 Mbps – in unserved locations of the Alaska Bush, unless the Commission were to provide a dramatic increase in high cost support.²¹ Many of these locations are served today via satellite transport, at a cost that would make it impossible for ACS to deliver affordable CAF Phase II broadband, even assuming the modified standards applicable to locations served through satellite backhaul.²² These Bush communities are located along the Aleutian Island chain, along Alaska’s rocky coast, on islands off of Alaska’s inaccessible southeast coast, or in Alaska’s remote, unpopulated interior. To achieve terrestrial connectivity would require hundreds of millions of

²¹ See *Connect America Fund*, WC Docket No. 10-90, Letter from Leonard A. Steinberg and Richard R. Cameron, ACS, to Marlene H. Dortch, Secretary, FCC (filed Mar. 28, 2014); Alaska Statewide Broadband Task Force, *A Blueprint for Alaska’s Broadband Future* (rel. Aug. 7, 2013), at 32 (available at: <http://www.alaska.edu/files/oit/bbtaskforce/2013-08-AK-Broadband-Task-Force-Report%7CA-Blueprint-for-Alaska%27s-Broadband-Future.pdf>) (cost of bringing broadband to all Alaskans exceeds \$1 billion, most of which would be for middle mile facilities); *Connect America Fund*, WC Docket No. 10-90, Letter from John T. Nakahata, Counsel to GCI (filed Feb. 15, 2013), Attachment, William P. Zarakas and Giulia McHenry, The Brattle Group “Alaska Mobile Broadband Cost Model”, at 5 (The cost of delivering 768 kbps downlink and 256 kbps uplink mobile wireless broadband to certain areas of Alaska not receiving that level of service would reach a five-year net present value cost of \$596 million. Roughly half of that cost represents the five-year costs of backhaul, and it does *not* include the cost of deploying any new terrestrial fiber or microwave facilities in the Alaskan Bush.).

²² *USF/ICC Transformation Order* at ¶ 101.

dollars of investment in new submarine cable facilities in order to reach perhaps a few dozen or a few hundred locations at each landing. One of the Bush communities the CAM identifies is located in Alaska's remote northern interior. Huslia (population 285) is located over 200 miles west of Fairbanks; to provide broadband there, ACS would need to deploy hundreds of miles of new transport facilities through virgin Alaskan wilderness, much of it federally protected wetlands located within the Koyukuk National Wildlife Refuge, which was "established to conserve waterfowl, other migratory birds, moose, caribou, furbearers, and salmon; to fulfill treaty obligations; to provide for continued subsistence uses, and to ensure necessary water quality and quantity."²³ It would be prohibitively expensive to undertake this effort, even if ACS were able to secure the necessary approvals to do so.

An equally herculean mobilization effort is necessary to deploy or maintain facilities on the Aleutian Chain. For example, mobilizing personnel, tools, and equipment to reach Pilot Point takes time, planning, and, above all, money. There is no scheduled barge to Pilot Point so large pieces of equipment, whether construction or telecommunications equipment, must be transported by chartered barge, at a cost of \$150,000 per day for the 4-day trip. Port Alsworth, west of the Cook Inlet, necessitates a \$75,000 barge charter out of Homer, then transfer of the cargo to a truck for overland transport, followed by a different barge to Port Alsworth. Along with equipment, it is often necessary to transport the required fuel. For one recent project, ACS needed to mobilize 1250 gallons of diesel fuel, along with its equipment, because that quantity was not available on-site.

²³ U.S. Fish and Wildlife Service, "Koyukuk National Wildlife Refuge," available at: <http://www.fws.gov/alaska/nwr/koyukuk/index.htm> (visited Aug. 7, 2014).

Air transport is both more expensive, and impractical for large items. Commercial flights can typically carry about 1500 to 2200 pounds of freight and people, combined. Charter planes have a similar carrying capacity and are significantly more costly than commercial service. Both barge and air transport are weather dependent, requiring favorable conditions for the journey and landing, including coordination with tide schedules to ensure that the barge can land on the beach.

To construct any facilities in these Bush locations would therefore require a substantial and costly mobilization effort. There is no heavy equipment routinely available in these remote areas; it would need to be transported to the sites. Neither are there qualified personnel in these areas available to do the work. ACS would need to arrange for crews to travel to the sites, and provide food and lodging for the duration of the job. Many of these locations have no hotels or other commercial lodging available for ACS work crews. Rather, ACS must make *ad hoc* arrangements for its workers to sleep on the floor of the local school, town hall, or another public building, because that may be the only available option. In addition, new lines of poles on which to place the cable will be required in some places, while in others, ACS would need to make extensive use of horizontal directional drilling to minimize the environmental impact, particularly in wetland areas. Given the time constraints imposed under CAF Phase II, a portion of the construction would need to take place during the winter months, at considerably greater expense even than what would be required in summer.

Accordingly, off-road locations should be eliminated from any build-out requirement. The CAM's understatement of middle mile transport costs in Alaska means that Alaska Bush locations should never have been included in the proposed CAF Phase II commitment at all.

b. As an Alternative, the Commission Should Give ACS Flexibility To Substitute Gigabit Service To CAIs For a Portion of Its Frozen Support Broadband Deployment Commitment

In a series of *ex parte* meetings in June 2014, ACS advocated that, instead of targeting broadband deployment to individual residential customer locations, the Commission would achieve greater overall benefits to Alaska by supporting deployment by ACS of fiber optic facilities that would deliver broadband at a speed of 1 Gbps to Community Anchor Institutions (“CAIs”) within ACS’s service area, together with 100 Mbps broadband to additional residential and small business locations surrounding the CAIs and along the deployment routes. ACS explained that deployment of this type, well above the minimum levels required in CONUS areas, would provide greater overall benefits to Alaska that would radiate across the state in the form of new and improved services that CAIs could deliver to their target constituencies, while serving the Commission’s goal of driving advanced services into areas where they would otherwise be unaffordable. ACS therefore proposes that the Commission permit ACS to substitute such 1 Gbps service to CAIs for service to other customer locations at CAF Phase II standards at a rate of 1 CAI for 150 CAF Phase II locations, up to a maximum of 200 CAIs.

2. The Commission Should Provide Flexibility For ACS to Substitute Unserved Locations In Other Census Blocks For Those Identified by the CAM

The *USF/ICC Transformation Order* provided flexibility for carriers to meet their broadband deployment commitments under CAF Phase II by permitting those carriers to “choose to serve some census blocks with costs above the highest cost threshold instead of eligible census blocks (*i.e.*, census blocks with lower costs), provided that it meets the public interest obligations in those census blocks, and provided that the total number of unserved locations and the total number of locations covered is greater than or equal to the number of locations in the eligible

census blocks.”²⁴ In the Further Notice, the Commission proposed expanding this flexibility by permitting CAF Phase II support recipients: (1) to specify that they are willing to deploy to less than 100 percent of the required locations in their funded service areas, with an attendant reduction in the level of support; and (2) to substitute some number of unserved locations within partially served census blocks for locations within funded census blocks.²⁵ ACS supports these measures as providing critical flexibility to price cap carriers in meeting their broadband deployment commitments, but believes that the Commission should extend them also to cover non-CONUS carriers that elect to continue receiving CAF Phase II support at the current CAF Phase I frozen support level.

a. Flexibility in Meeting Broadband Deployment Commitments Is As Important to Non-CONUS Carriers As It Is to Other CAF Phase II Support Recipients

The Commission articulated compelling rationales for the original flexibility granted in the *USF/ICC Transformation Order*, including that it afforded carriers the opportunity to meet their state-level CAF Phase II deployment commitments more efficiently by building integrated networks that cover unserved locations in adjacent census blocks.²⁶

The Further Notice proposes extending new flexibility “[f]or similar reasons” to “all recipients of Phase II funding, both in the state-level commitment process and competitive bidding process.”²⁷ ACS believes that the Commission should clarify that its reference to “all recipients” includes those that receive CAF Phase II funding at the frozen CAF Phase I level.

²⁴ *USF/ICC Transformation Order* at ¶ 171 n. 279.

²⁵ Further Notice at ¶¶ 165-172.

²⁶ Further Notice at ¶¶ 163-64.

²⁷ *Id.* at ¶ 164.

The Commission's original rationale for permitting carriers to substitute unserved locations in census blocks above the very high cost threshold had nothing to do with the basis on which the carrier's support amount was determined. It applies with equal force to broadband deployment by non-CONUS carriers whose CAF Phase II support is set based on their historical CAF Phase I support levels.

For the same reasons, the Commission should make clear that non-CONUS carriers will meet their broadband deployment commitment so long as the total number of locations to which they deploy broadband within the supported census blocks equals or exceeds the total number of locations to which they have committed. The Commission should not require non-CONUS carriers to demonstrate that they have deployed to the particular number of locations identified by the CAM in *each* census block, so long as the aggregate number of served locations within the supported census blocks meets or exceeds the overall total to which the carrier has committed.

First, ACS has determined that, for individual census blocks, the number of locations shown in the CAM data often differs significantly from the number of customer locations that ACS records indicate are present. While, in the aggregate it may be possible for ACS to deploy broadband to the required number of locations, it may be a physical impossibility to match the exact numbers shown in the CAM in individual census blocks.

Second, while the Commission appears able to publish the number of locations that are eligible for support in each census block, it has not yet published any information on precisely which locations are supported. Unless the Commission published the precise latitude and longitude of every supported location, and then requires support recipients to report the precise

latitude and longitude of each new location they serve, it would be impossible to mandate deployment to particular locations. The implied flexibility for carriers to choose from among the available locations in each census block in meeting their commitments appears little different from the flexibility to deploy to additional locations in a different eligible census block.

In addition to the forms of flexibility proposed in the Further Notice, ACS believes that the Commission should provide the flexibility in Alaska for ACS to substitute, for up to 25 percent of its 29,418 location deployment commitment, unserved locations in census blocks that the CAM regards as below the support threshold. ACS and GCI have competed vigorously throughout the majority of ACS's service area for decades, with both receiving significant federal high costs support. Any locations that remain unserved, even in census blocks that the CAM regards as below the support threshold, are likely to present challenges that make them costly and difficult to serve. Further, as the Commission and Bureau have recognized, there are unresolved questions regarding the CAM's estimates of broadband costs, including its treatment of middle mile transport costs in Alaska; the fact that the CAM does not regard such unserved locations as "high cost" is therefore, not as reliable as the market evidence to the contrary. Thus, it would serve the public interest in Alaska to permit ACS to substitute such unserved locations for at least a portion of its CAM-based deployment commitment.

**b. Substitution of Unserved Locations In Partially Served Census Blocks
Advances the Commission's Broadband Policy Goals in Non-CONUS Areas**

For similar reasons, to the extent the Commission uses unserved customer locations identified in the CAM to set broadband deployment commitments for carriers serving non-CONUS parts of the nation, it should permit those carriers to substitute unserved locations in

partially served census blocks for those included in their original deployment commitments.²⁸

Carrier networks do not neatly follow census block boundaries. As carriers work to meet their commitments over time, it is inevitable that the facilities deployed to serve unserved census blocks will also encompass unserved locations in adjacent, partially served census blocks. For the customer that is unserved, it matters not whether he is located in a census block where others have access to broadband; it is far more important whether he can purchase broadband at his own location. Carriers advance the Commission's broadband deployment policy goals by offering service at previously unserved locations, whether those locations fall within unserved or partially served census blocks, and should receive "credit" for doing so accordingly.

Moreover, the mere fact that a census block is partially served does not necessarily mean that the nearby provider is willing to serve the remainder of the census block. Particularly in Alaska, where population density is the lowest in the nation and census blocks are relatively large, carrier network topologies do not follow census block boundaries, nor do market conditions remain uniform across the entire block. To confirm this point, ACS has examined the availability of broadband service within a sample of census blocks partially served by GCI within ACS's service area. It found that, at a majority of the addresses checked within these census blocks, broadband service was not available, though the National Broadband Map lists the census block as "served." The Commission's proposal to discontinue high cost support for all census blocks that are even partially served by a qualified competitor – whether supported or unsupported – carries the unavoidable risk that capital investment in these census blocks will decrease. By giving carriers the flexibility to meet their deployment commitments by serving unserved

²⁸ Further Notice at ¶ 167.

locations in partially served census blocks, even in non-CONUS areas, the Commission will offer a continued incentive to invest in serving a greater range of currently unserved customers.

The Commission's previous decision to exclude partially-served census blocks from CAF Phase II support rested primarily on considerations of administrative complexity necessary to guard against overbuilding.²⁹ But, the Commission's proposal to permit substitution following a targeted notice and objection period effectively overcomes those concerns.³⁰ ACS agrees that, following notice of potential deployment, a carrier should be free to proceed if it does not receive any objection from another provider claiming to serve those locations.

ACS would propose certain refinements, however. A 90-day waiting period is likely too long. The Commission has provided a 45-day period for carriers to submit census block challenges covering their entire service areas nationwide, and the challenged provider will have 45 days to respond to challenges deemed meritorious by the Bureau.³¹ ACS believes that, if 45 days is sufficient for this national challenge process, it should be equally sufficient for competing providers to address targeted proposals to serve individual addresses in partially served census blocks. The summer construction season in Alaska is short, barely reaching 90 days in total. Therefore, a 90-day waiting period in many cases would often push the proposed construction to the following year, needlessly delaying consumer access to the new broadband service.

Rather, if a competitor were to file a "statement of service" within the 45-day window, that filing should automatically trigger a 45-day response period for the price cap carrier that

²⁹ Further Notice at ¶ 169.

³⁰ Further Notice at ¶¶ 171-72.

³¹ DA 14-942, at 3.

proposed service. Following receipt of that response, the Bureau should proceed to resolve the matter within the existing challenge framework, with a commitment to issue a decision within 60 days. Unlike the administrative burden that would be posed by including partially served census blocks in the national challenge process underway now, this solution limits the use of provider and Commission resources to areas where there is an actual controversy, and where deployment will actually proceed if the locations are, in fact, unserved.

ACS appreciates the administrative efficiency of identifying proposed deployment locations annually with the Form 481, that filing is due annually on July 1, at the height of the summer construction season in Alaska. If the Commission adopts that process, ACS urges the Commission to act quickly on any objections it receives, so that ACS will have sufficient time for deployment planning before the following summer construction season begins.

c. The Flexibility to Deploy Broadband Service To Less Than 100 Percent of the Funded Locations Would Provide an Important Safety Valve

ACS supports the Commission's proposal to permit CAF Phase II support recipients to deploy broadband to less than 100 percent of the funded locations, and believes that this flexibility should also be available to price cap carriers serving non-CONUS areas of the nation.³² While the Commission proposes to establish 95 percent as a minimum, ACS believes that a 90 percent minimum would better balance the need for flexibility with the imperative to ensure meaningful progress toward advancing the Commission's broadband deployment goals.

ACS believes that the Commission should permit CAF Phase II support recipients to adjust their deployment commitments at any time during the term of CAF Phase II support,

³² Further Notice at ¶ 165.

rather than requiring them to specify the number of locations to which they intend to deploy at the time funding is first accepted. Unanticipated engineering or financial obstacles may emerge only after construction is underway. If recipients are required to announce a number of locations at the time of acceptance, it may cause them to be more conservative with their commitments than if they retain the flexibility to adjust to changes in circumstances as they arise. As a result, flexibility to make such mid-course adjustments is likely, in the long run, to facilitate more overall deployment.

3. The Commission Should Adopt a Ten-Year Term For CAF Phase II Support and Buildout In Alaska

In the Further Notice, the Commission seeks comment on whether to specify a five-year term of support for non-CONUS carriers accepting CAF Phase II support set based on frozen support levels.³³ ACS believes that a ten-year term for support and buildout is necessary in Alaska.

ACS faces unique conditions in Alaska that would make it impossible to meet the broadband deployment commitment it proposes here within five years. ACS faces a uniquely short construction season in Alaska. The cold northern climate means that ACS concentrates its network construction projects during a short, 3-4 month summer season. While some carriers in the lower 48 states may also face seasonal variances in their ability to deploy facilities in portions of their overall nationwide service areas, ACS uniquely faces such conditions *throughout* its service area – it has no “temperate” zone within which to focus its efforts during the cold winter months.

³³ Further Notice at ¶ 210.

The overall timing of the Commission's award of CAF Phase II funding also impacts ACS's ability to meet broadband deployment targets. The Further Notice proposes to begin the CAF Phase II deployment period would begin at the start of 2015, even if the deadline for acceptance of CAF Phase II funding actually falls, as expected, later in 2015.³⁴ But, ACS will need to plan its 2015 construction projects well before it expects to know whether it will be able to accept CAF Phase II funding, or the deployment obligations it will be asked to make. Thus, if the Commission adopts that proposal, ACS may find itself unable to make the amount of progress during the 2015 construction season that would be required in order to compress its buildout process into fewer than ten years.

Moreover, ACS must rely on a relatively small number of specialized network engineers and construction contractors that have experience in designing and deploying telecommunications networks in Alaska, because soil, climate, and topographic conditions differ markedly from those in the lower 48 states. Even experienced workers from the lower 48 states face a significant learning curve to gain an understanding of the unique considerations associated with deploying plant in Alaska.

Further, ACS believes that the Commission's award of CAF Phase II funding may precipitate shortages of fiber optic cable, network equipment, qualified workers, and other broadband plant materials and essential inputs, as all price cap carriers seek to launch massive deployment projects simultaneously. ACS's remote northern location and small size make it poorly positioned to compete for these necessary resources against larger, more centrally located

³⁴ Further Notice at ¶ 213.

carriers. As a result, constraints in the availability of these resources will inevitably affect the pace of ACS's deployment.

The ten-year term for buildout and support will be particularly necessary if the Commission, as expected, adopts the 10/1 Mbps for CAF Phase II deployment. ACS believes that, while the 10/1 Mbps standard makes better engineering sense than the 4/1 Mbps standard originally chosen by the Commission, the engineering and construction effort to meet that standard will be more involved than what would be necessary to achieve 4/1 Mbps. As compared to 4/1 Mbps broadband service, 10/1 Mbps service requires uniformly shorter loops, and correspondingly more fiber on the loop side of the central office with a greater number of nodes required to achieve loop lengths of approximately 7500 feet or less. Because the 10/1 Mbps standard therefore requires a greater quantity of network facilities and deployment work to achieve, a ten-year term would better enable ACS to meet that requirement. This is particularly true in light of the broadband "take rate" it has experienced historically in Alaska, which is far below that assumed by the Commission in the CAM, and which produces a correspondingly smaller customer revenue stream than what might be expected elsewhere in the nation.

4. The Commission Should Establish Reasonable Milestones to Monitor Progress Toward ACS's Deployment Commitment

In the Further Notice, the Commission seeks comment on how best to monitor and enforce compliance by non-CONUS carriers receiving frozen support with the service obligations the Commission adopts.³⁵ ACS believes that the Commission should, as part of the

³⁵ Further Notice at ¶ 209.

service obligation, establish intermediate milestones, against which ACS and the other non-CONUS carriers may report their progress.

For example, based on the ten-year support and buildout period ACS advocates above, the Commission should require ACS to have voice and broadband meeting the CAF Phase II performance standards available to 30 percent of the required locations in by the end of Year 4; 60 percent by the end of Year 7; and 100 percent by the end of Year 10. Carriers will have inherent incentives to deploy broadband as quickly as possible in order to stimulate end-user revenues from the advanced services they offer. However, ACS propose that the buildout milestones be slightly “backloaded” because, for the reasons discussed above, ACS anticipates that it will face significant obstacles that will impede its progress at least during the first year of the CAF Phase II funding period. Given ACS’s unique construction challenges, short building seasons and limited access to personnel and materials, up-front planning and coordination is particularly important. Specifically, ACS anticipates that the timing of the start of CAF Phase II support, together with constraints on the availability of necessary personnel and material inputs, will make it difficult for ACS to plan and execute the amount of broadband deployment in Year 1 that it will need to accomplish in subsequent years.

5. The Commission Should Clarify that ACS May Use CAF Phase II Frozen Support for Operations Expenses, Not Solely Capital Investment

The Further Notice explicitly recognizes the goals of the *USF/ICC Transformation Order* to “preserve and advance the universal availability of voice service.”³⁶ To help achieve this goal, ACS believes that the Commission should make clear that recipients of CAF Phase II support are

³⁶ Further Notice at ¶ 240.

permitted to use a portion of the funding to support operating expenses, both in census blocks covered by CAF Phase II, and elsewhere. Doing so will represent a small but significant step to help preserve voice and broadband service in census blocks not explicitly covered by the broadband deployment commitment of CAF Phase II.

Section 254(e) of the Communications Act of 1934, as amended, states that a carrier may use universal service support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³⁷ For purposes of CAF Phase I frozen support, the Commission established two separate requirements: First, that the recipient use all such frozen support in the study areas for which it was provided; and second, that it spend an increasing portion to build and operate broadband-capable networks in locations unserved by an unsubsidized competitor.³⁸

In providing for support to be used for delivery of services, as well as maintenance of facilities, Section 254(e) contemplates that support should be available for operating expenses. Moreover, the CAM incorporates allowances for ongoing operations as well as new construction. ACS has determined that the support generated for Alaska under an earlier version of the CAM was roughly evenly split between support for capital investment and support for operating expenses.³⁹ To assist CAF Phase II recipients in meeting their statutory obligations, ACS believes that the Commission should clarify that recipients of CAF Phase II frozen support may

³⁷ 47 U.S.C. § 254(e).

³⁸ *USF/ICC Transformation Order* at ¶ 150; *Frozen Support Clarification Order* at ¶¶ 10-11.

³⁹ *Connect America Fund*, WC Docket No. 10-90, *Ex parte* Letter from Leonard A. Steinberg and Richard R. Cameron, ACS, filed July 9, 2013 (“ACS July 9 Letter”) at 17.

use a portion of such support for operating expenses, and are not required to spend 100 percent of that support on capital deployment of broadband facilities.

Recipients of CAF Phase II support will be obligated to meet certain broadband deployment commitments to reach locations that are unserved by broadband. But, it would be a counterproductive result indeed if the cost of that deployment left no resources available to operate and maintain new and existing broadband-capable networks. Without the ability to spend support dollars to operate and maintain these broadband facilities, CAF Phase II may paradoxically cause a retrenchment in the availability of broadband service, as recipients are forced to concentrate their available resources on maintaining service in the most profitable portions of their service areas, not the marginal census blocks supported by CAF Phase II.

The Commission should likewise clarify that ACS is permitted to use a portion of its support to maintain voice service in very high-cost census blocks, including those in the Alaska Bush. The Further Notice already proposes to help preserve service in these vulnerable areas by reallocating the majority of the funding reserved for Mobility Fund Phase II – up to \$400 million – to the RAF or competitive bidding process of CAF Phase II.⁴⁰ ACS supports an expansion of the RAF, because the \$100 million originally slated for the RAF could easily be consumed in preserving service in the Alaska Bush alone, let alone any locations in the rest of the nation.⁴¹ For that reason, ACS also supports the Alaska Rural Coalition’s proposal to direct \$25 million annually for at least five years to construct middle mile facilities in Alaska, provided that the

⁴⁰ *Id.* at ¶ 246.

⁴¹ *Connect America Fund*, WC Docket No. 10-90, Comments of the Alaska Rural Coalition Concerning the Remote Areas Fund (filed Feb. 19, 2013), at 29.

Commission can impose and enforce *effective* nondiscriminatory access requirements with respect to such facilities.⁴² In addition, the Commission should make clear that recipients of CAF Phase II frozen support are permitted to use a portion of their support in this way, to the extent that they can do so while continuing to meet their CAF Phase II broadband deployment commitments.

C. Public Interest Standards Should Be Tailored to the Challenges of Serving Non-CONUS Areas

In the Further Notice, the Commission proposes that non-CONUS carriers electing to receive CAF Phase II support at frozen CAF Phase I levels be subject to the same public interest obligations as those receiving support set by the CAM, including speed, affordability, usage allowances, and latency.⁴³ While ACS generally agrees that this is a reasonable outcome, the Commission should make certain adjustments to these requirements to reflect deployment conditions in Alaska.

First, as discussed above, the Commission should only adopt the 10/1 Mbps standard to govern ACS's broadband deployment commitment in Alaska if it couples that requirement with a ten-year term of support. It is more costly and time consuming (more plant grooming and cutovers) to deploy 10/1 Mbps broadband service than it is to deploy 4/1 Mbps broadband service, because 10/1 Mbps service requires ACS to push fiber further into the network on the line side of the central office, in order to sufficiently shorten its loop lengths to achieve 10/1 Mbps. This investment will be correspondingly more difficult to recoup, and a five-year term

⁴² Further Notice at ¶ 307.

⁴³ Further Notice at ¶¶ 203-206.

simply provides inadequate support for the costs of broadband plant that may take decades to depreciate.

Further, in response to the Commission's query, ACS strongly opposes any upstream speed greater than 1 Mbps.⁴⁴ While 10/1 Mbps broadband service can be delivered over a single loop of not more than about 7500 feet, ACS would need to adopt substantially different architecture to achieve even the 1.5 Mbps upstream speed that the Commission's originally adopted for a portion of supported CAF Phase II locations. 1.5 Mbps upstream service would require ACS to use pair bonding or, with additional engineering changes, further shorten loop lengths to no more than 6000 feet. In ACS's experience, pair bonding is far less reliable than broadband delivered using a single loop, and it is also would cause ACS to incur substantially greater operating expenses, in part because of the increased costs of maintaining two loops.

Second, the Commission should confirm that the more relaxed broadband standards previously adopted by the Commission and the Bureau for areas served by satellite backhaul facilities will continue to apply to any locations that ACS serves as part of its CAF Phase II frozen support broadband deployment commitment. In the *USF/ICC Transformation Order*, the Commission explicitly held that:

Carriers seeking relaxed public interest obligations because they lack the ability to obtain terrestrial backhaul – either fiber, microwave, or other technology – and are therefore compelled to rely exclusively on satellite backhaul in their study area, must certify annually that no terrestrial backhaul options exist, and that they are unable to satisfy the broadband public interest obligations adopted above due to the limited functionality of the available satellite backhaul facilities. Any such funding recipients must offer broadband service speeds of at least 1 Mbps downstream and 256 kbps upstream within the supported area served by satellite

⁴⁴ Further Notice at ¶ 141.

middle-mile facilities. Latency and capacity requirements discussed above will not apply to this subset of providers.⁴⁵

In addition, the Bureau has clarified that, for purposes of measuring the latency of ACS's CAF Phase II broadband connections, it may exclude any locations served using satellite backhaul.⁴⁶ While ACS has requested that the Commission exclude Bush locations from any deployment commitment required of ACS in connection with CAF Phase II frozen support, the Commission should confirm that, to the extent that locations served by satellite may remain among the 29,418 locations ACS proposes to serve, that these more relaxed public interest obligations relating to speed, latency, and capacity will apply in lieu of the more rigorous public interest standards that apply to locations served by terrestrial backhaul.

D. The Commission Should Relieve ACS of ILEC and ETC Obligations in Areas Where Support Is No Longer Available

In the Further Notice, the Commission seeks comment on sunseting ETC obligations tied to participation in CAF Phase II or the RAF after the funding term expires and the entity has fulfilled its build-out obligations.⁴⁷ ACS agrees that the Commission's proposal would best reflect the purpose of the ETC designation process to ensure that federal support flows only to carriers that provide the full array of services within the Commission's definition of "universal service."

ACS therefore supports the Commission's proposal to permit ETCs to relinquish their designations once they are no longer receiving federal support. While the Commission asks this

⁴⁵ *USF/ICC Transformation Order* at ¶ 101.

⁴⁶ *Connect America Fund*, WC Docket No. 10-90, Order, DA 13-2115, 28 FCC Rcd 15060 (Wir. Comp. Bur. 2013), at ¶ 34.

⁴⁷ Further Notice at ¶ 184.

question in the context of ETC designations tied to participation in the CAF program or the Remote Areas Fund (“RAF”), ACS believes that ETC designations should similarly be relinquished in areas where frozen high-cost support ceases to flow. Where no federal support is flowing, there is no purpose for the ETC designation.

Further, in areas that are recognized as high cost – either by the CAM or the operation of legacy mechanisms – it would violate the Communications Act for the Commission to impose ETC obligations without providing sufficient support for the subject carrier to meet them. Specifically, Section 254(e) requires that high costs support provided to ETCs “should be explicit and sufficient to achieve the purposes of this section.”⁴⁸ Thus, the Commission may not maintain ETC obligations in high cost areas while refusing to provide sufficient support to ensure that the rates for services within the definition of “universal service,” and including “advanced telecommunications and information services,” remain affordable and reasonably comparable to those in urban areas.⁴⁹

Similarly, ACS disagrees with the Commission’s assertion that it may simultaneously prohibit discontinuance of service under Section 214(a) while refusing to provide sufficient high-cost support to enable a carrier to provide such service. The Commission may not sustain voice service through sheer force of regulatory will. Rather, if the Commission wishes to see voice service continue in high-cost areas, such as the Alaskan Bush, it must continue to provide the federal high costs support necessary to sustain it. Otherwise, it should issue blanket

⁴⁸ 47 U.S.C. § 254(e).

⁴⁹ 47 U.S.C. § 254(b)(2, 3, 5).

authorization for carriers to discontinue voice service where the Commission's universal service policies have made that service financially unsustainable.

The Commission should go still further. Where the Commission terminates support in an area it recognizes as high cost, whether through the CAM or under legacy mechanisms, it should also relieve the incumbent carrier of its ILEC-specific obligations under Section 251 and 252 of the Communications Act. With no federal support available, ACS's customer revenue stream in its highest-cost service areas will be insufficient to support its own operations. It is therefore plain that it will no longer be able to subsidize its competitors' costs of entry through below-cost rates for unbundled network elements, wholesale discounts for resale of its services, Section 251(c)(2) interconnection at any technically feasible point, nondiscriminatory colocation, and other ILEC-specific obligations. Further, given the Commission's wise decision to terminate support for multiple networks in high-cost areas through CETC support, it makes little sense to require ILECs to continue to facilitate competitive entry in areas where they themselves lack an adequate revenue stream to operate and maintain their own facilities, let alone invest in new network capabilities.

Particularly in an area where support has been transferred to another carrier, such as through the CAF Phase II competitive bidding process or the operation of the RAF, the Commission should transfer these ILEC obligations to the supported provider, by declaring that carrier to be the ILEC under Section 251(h)(2) of the Communication Act.⁵⁰ Unless the Commission does so, it risks creating the bizarre and unsustainable result where a competitor

⁵⁰ 47 U.S.C. § 251(h)(2).

receiving high-cost universal service support could seek to discharge its obligations by requiring the no-longer-supported ILEC to provide UNEs and wholesale services at discounted rates. Such a result would disserve the public interest by ultimately driving the ILEC from the market, leaving the competitor with uncertain means through which to meet ETC obligations and leaving consumers as well as wholesale customers without a reliable network operator.

E. In Areas Served by More than One Supported Voice and Broadband Provider, the Commission Should Terminate ILEC and Wireline CETC Support at the Same Time to Avoid Unintended Market Distortions

Similarly, if the Commission adopts its proposal to terminate support in census blocks served both by the ILEC and a qualified wireline competitor, it should structure its rules to make clear that, in areas served by more than one wireline ETC, high cost support for the incumbent and the wireline ETC will terminate at the same time. The Further Notice seeks comment on various modifications to the phase down of support for wireless CETCs, including freezing support for wireless CETCs serving remote areas of Alaska as of December 31, 2014, until after winning bids are announced for ongoing support under Tribal Mobility Fund Phase II or Mobility Fund Phase II, as the case may be.⁵¹ While ACS does not oppose the rule changes the Commission proposes, it is vital that the Commission take steps to distinguish wireline from wireless CETCs.

In various parts of the Further Notice, the Commission proposes to (1) exclude from the offer of model-based support any census block that is served by a facilities-based terrestrial competitor offering fixed residential voice and broadband services that meet the Commission's

⁵¹ Further Notice at ¶¶250-57.

service requirements;⁵² (2) prohibit non-CONUS carriers from using such support in any areas where there is a terrestrial provider of fixed residential voice and broadband service that meets our Phase II performance requirements;⁵³ and (3) freeze the phase-down of CETC support for wireless CETCs serving remote areas of Alaska as of December 31, 2014, and maintain, for a period of time, CETC support for every wireless CETC for which CETC support exceeds one percent of its wireless revenues.⁵⁴ The Commission's discussion of CETC support does not, however, distinguish wireless from wireline CETCs.

Contrary to the Commission's proposal, ACS has long argued in this proceeding that the Commission should not exclude census blocks served only by subsidized competitors from CAF Phase II support.⁵⁵ Where no unsubsidized competitor has entered the market, there is no evidence that the market can support affordable voice and broadband service on an unsupported basis. As is the case in Alaska, the subsidized competitor has great flexibility to enter only those areas it finds profitable to serve, and bears no obligation to remain in the market if its revenues, once federal support ceases, cannot sustain its voice or broadband service offerings.

If the Commission nevertheless determines to exclude census blocks served by any competitor – subsidized or unsubsidized – from eligibility for CAF Phase II support, and to prohibit non-CONUS carriers from using CAF Phase II frozen support in such areas, it should ensure that its rules bring high cost support for wireline CETCs to an end in such census blocks

⁵² Further Notice at ¶ 174.

⁵³ Further Notice at ¶ 207.

⁵⁴ Further Notice at ¶ 250.

⁵⁵ Further Notice at ¶¶ 174, 207.

at the same time as support ceases to flow to the ILEC. The Commission will otherwise artificially distort the competitive landscape, and *destroy* competitive neutrality, with the CETC continuing to receive support during the subsequent (and extended) phase-down of CETC support, while the ILEC does not. To the extent that the Commission's goal was to focus support on a single provider in areas requiring support, such a framework invites an outcome that creates unwarranted consumer risk, favoring a CETC that has established its business with minimal service obligations or regulatory oversight that stand in sharp contrast to the historical ILEC framework.

F. The Phase II Competitive Bidding Mechanism Should Recognize the Unique Circumstances of Non-CONUS Areas

The Further Notice seeks comment on various issues surrounding the design and operation of the Phase II competitive bidding process in states where the price cap ILEC is unable to accept the right of first refusal of CAF Phase II support.⁵⁶ Among other issues, the Commission sought comment on the geographic units on which the auction would be based.⁵⁷

ACS believes that, if a non-CONUS carrier declines both CAF Phase II frozen support and CAF Phase II model support, the ensuing auction should be conducted for that non-CONUS jurisdiction individually, with the model-based support amount reserved for use by a bidder proposing to serve that non-CONUS area. So, for example, the amount of support offered to ACS under the right-of-first refusal would be available to bidders proposing to use that support in Alaska. The same would be true in other non-CONUS areas.

⁵⁶ Further Notice at ¶¶ 224-234.

⁵⁷ *Id.* at ¶ 228.

For the reasons already explained by ACS in advocating changes to the CAM, the costs of deploying broadband in Alaska are substantially higher, on average, than the costs of doing so in the lower 48 contiguous states. Alaska faces higher costs of transporting broadband equipment to Alaska, and higher labor and other deployment costs once that equipment arrives. Alaska uniquely has no Internet exchange point within its borders; all broadband traffic must be aggregated in Anchorage or Juneau and sent by undersea cable between those locations and the nearest Internet exchange points in Washington and Oregon. Even within the state, ACS faces higher middle mile transport costs necessary to connect its cable landing stations to customer locations around the state. As a result, a nationwide auction would place Alaskan bidders at a distinct disadvantage, and could even result in a loss of all high-cost support currently flowing to the state. Particularly when Alaska already lags the nation in the availability of broadband service, such a result would be contrary to the Commission's broadband policy goals and the public interest in Alaska.

Finally, ACS believes that the auction in Alaska should be conducted with the census block as the minimum geographic bidding unit. Alaska's large size and low population density means that its census blocks are relatively large compared to those in the lower 48 contiguous states. Census tracts in many cases would represent too large a commitment for bidders, and may encompass too many disparate cost characteristics. Census block bidding, in contrast, is likely to produce more efficient results.

Conclusion

For the foregoing reasons, ACS urges the Commission to create deployment commitments for non-CONUS carriers that reflect the individual challenges and support levels available to each. For Alaska, ACS requests that the Commission create a deployment commitment that ACS can achieve using the available \$19.7 million annual level of CAF Phase II frozen support that would include: (1) deployment to 29,418 locations shown as eligible for CAF Phase II funding under the CAM Mbps results that are located in census blocks not located in the Alaskan Bush and not served by a wireline qualified competitor; (2) flexibility for ACS to substitute locations in partially served census blocks and other census blocks to the extent described herein, as well as gigabit service to Community Anchor Institutions; (3) the option for ACS to elect, should conditions warrant during the term of support, the option to deploy to less than 100 percent of its committed locations, with an attendant reduction of support; (4) a support and buildout term of ten years, with intermediate deployment milestones that reflect the mobilization period ACS will incur at the start of the term of support; (5) compliance requirements limited to accomplishment of the numerical deployment commitment to the specified number of funded locations in the state; and (6) recognition that a portion of support must be spent to cover operating and maintenance expenses for ACS's entire network, which cannot readily be assigned to particular census blocks.

In addition, in areas where ACS ceases to receive federal high cost support, the Commission should relieve ACS of its ETC status, Section 214(a) service discontinuance obligations, and ILEC-specific obligations under Section 251 and 252. In census blocks where the Commission terminates high cost support because of the presence of a "qualified

competitor,” it should terminate support for ACS and the wireline CETC at the same time, to avoid competitive distortions.

Finally, in any auction following ACS’s decision to decline the right of first refusal of CAF Phase II model support, the Commission should reserve Alaska’s model-based support for bidders that will serve Alaska, and use the census block as the minimum geographic unit for bidding purposes.

Respectfully submitted,

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