

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

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| <i>In the Matter of</i> |) | |
| |) | |
| 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 GENERAL COMMUNICATION, INC. ON
FURTHER NOTICE OF PROPOSED RULEMAKING**

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TABLE OF CONTENTS

| | | |
|------|---|----|
| I. | THE COMMISSION SHOULD ADOPT A MORE REASONABLE TRANSITION PLAN FOR THE MOBILITY FUND/TRIBAL MOBILITY FUND PHASE II THAT TARGETS SUPPORT TO AREAS NOT SERVED BY AT&T OR VERIZON LTE. | 2 |
| | A. GCI Recommends Adoption of a Modified Five-Year Freeze Plan for Mobility Fund Phase II for Alaska. | 6 |
| | B. GCI’s Proposal Has Numerous Benefits that Cannot Be Realized Under the Commission’s Proposal. | 8 |
| II. | GCI ENCOURAGES THE COMMISSION TO MODIFY ITS PROPOSALS FOR CACM-BASED SUPPORT/COMPETITIVE BIDDING IN CAF PHASE II TO ENSURE HIGH-COST SUPPORT IS USED TO EXPAND BROADBAND TO TRULY UNSERVED AREAS. | 9 |
| | A. Determination of Unserved Areas Eligible for Support Should Ensure Support Is Targeted at Those Areas that Will Not Have Access to Broadband without Support. | 11 |
| | B. The Commission Should Modify Its Proposed Standards Where Necessary to Ensure that Support is Not Unreasonably Denied. | 15 |
| | 1. Downstream Speed Standards | 15 |
| | 2. 100 GB Usage Cap | 16 |
| | 3. Determination of “Service Area” | 16 |
| | C. The Commission Should Modify Its CAF II Non-Contiguous Frozen Support Proposal to Acknowledge Technological Limitations in Certain Rural Areas. | 17 |
| III. | THE COMMISSION SHOULD ENSURE THAT SUPPORT IS SUFFICIENT TO PERMIT RATE-OF-RETURN CARRIERS TO PURCHASE MIDDLE MILE SERVICES RATHER THAN PROVIDING ONE-TIME SUPPORT FOR THE CONSTRUCTION OF INTEREXCHANGE FACILITIES BY RATE-OF-RETURN LECs. | 18 |
| | A. Support Should Be Provided For Areas Served By Rate-Of-Return Carriers Rather Than For Rate Of Return Carriers Themselves. | 19 |
| | B. The FNPRM Fails to Consider Potential Cost Misallocation. | 21 |
| | C. The Commission Should Exclude Support for Terrestrial Middle Mile in Areas That Already Have Terrestrial Middle Mile. | 22 |
| | D. The Commission Should Encourage Use of Matching Funds From Both Public and Private Sources. | 23 |
| | E. The Commission Should Not Adopt a Mechanism Which Requires Recipients of Funding to Charge Rates that Are “No Higher than Rates for Comparable Connectivity in Urban Areas” or “Discounted Rates Available to Recipients of Funding Under the E-Rate or Rural Health Care Programs” | 24 |
| IV. | CONCLUSION | 25 |

**COMMENTS OF GENERAL COMMUNICATION, INC. ON
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General Communication, Inc. (“GCI”) hereby comments on the Commission’s Further Notice of Proposed Rulemaking regarding the framework for universal service reform in Phase II of the Connect America Fund (“CAF”).¹ GCI continues to support the adoption of a coherent approach to high-cost universal service reform in Alaska that promotes the Commission’s goals while recognizing Alaska’s unique geographic, demographic, climatological, and underlying infrastructure challenges, which distinguish the Last Frontier from the 48 contiguous states. Alaska has seen its statewide annualized recurring high-cost support drop significantly since 2011; it has thereby contributed to the national high-cost budget reform effort. But, given the undeniable need for universal service support to deploy and sustain modern telecommunications and broadband networks in Alaska, it would be irrational to further reduce the total high-cost support to Alaska. Rather, high-cost reform in Alaska should focus on better targeting support, tied to the Commission’s broadband deployment objectives.

To that end, GCI supports several of the Commission’s proposals and recommends a number of modifications designed to ensure that support continues to be directed at broadband expansion to unserved or underserved communities rather than to overbuilding areas that already have broadband service. GCI also encourages the Commission to adopt an alternative plan for the Mobility Fund Phase II in Alaska that will ensure that high-cost support for wireless broadband in Alaska continues to be sufficient to allow carriers to deploy service. Finally, GCI urges the Commission to modify its middle mile proposal to better serve broadband service objectives consistent with the universal service statutory and regulatory framework, at the very

¹ *Connect America Fund, et al.*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54, WC Docket No. 10-90, *et al.* (rel. June 10, 2014) (“FNPRM”).

least, in a manner that makes all eligible telecommunications carriers (“ETCs”) in the targeted geography eligible to compete for middle mile support.

I. THE COMMISSION SHOULD ADOPT A MORE REASONABLE TRANSITION PLAN FOR THE MOBILITY FUND/TRIBAL MOBILITY FUND PHASE II THAT TARGETS SUPPORT TO AREAS NOT SERVED BY AT&T OR VERIZON LTE.

GCI commends the Commission for seeking comment on its Mobility Fund Phase II and Tribal Mobility Fund Phase II proposals. To ensure that both the Mobility Fund and Tribal Mobility Fund continue to support broadband expansion in Alaska, GCI recommends a modified non-contiguous freeze plan, under which the Commission will set aside, within the Mobility Fund Phase II, the current annualized amount of competitive eligible telecommunications carrier (“CETC”) support flowing to Alaska. At present, if the Mobility Fund and Tribal Mobility Fund Phase I results are a predictor of the results of a Mobility Fund Phase II reverse auction, Alaska’s current CETC high-cost support of approximately \$105 million per year will be reduced considerably, to anywhere from \$87 million to just \$5 million per year, with any amount within this broad range being wholly inadequate to close the mobile broadband gap between Remote Alaska and the rest of the nation. Indeed, the current amount of high-cost support is far less than the amount necessary to deploy a mobile broadband service to all Alaska communities with even an average throughput of 768 Kpbs down and 256 Kbps up (which is equivalent of approximately 200 Kbps at the edge of the cell). The plain fact is that, to get practically all Alaska locations up to an average throughput of 768 Kbps down and 256 kbps up, Alaska needs more high-cost support, not less.

As the Commission has recognized, Alaska’s wireless infrastructure significantly lags behind the rest of the country, particularly in those areas outside of Alaska’s three largest communities, Anchorage, Fairbanks, and Juneau. Indeed, such remote areas were the principal focus of the exception to the 2008 CETC support cap—a successful policy that the Commission

found led to expanded mobile coverage throughout Alaska’s Tribal Lands.² In the *Transformation Order*, the Commission deferred the CETC legacy support phasedown in Remote Alaska—outside of Anchorage, Fairbanks, and Juneau—for all CETCs that had been certifying that they served Covered Locations (*e.g.*, all Alaska CETCs other than AT&T).³

Under the CETC Covered Locations exception, GCI was able to leverage high-cost support to increase private investment and bring modern digital mobile service to rural Alaska for the first time. Though the Alaska Wireless Network combination, GCI has been able to push 4G LTE to much of the most populated road areas that are connected to the fiber backbone, and it is on track to use Mobility Fund Phase I and Tribal Mobility Fund Phase I support to upgrade dozens of communities to 3G and 4G service. Much of this investment has been undertaken with the knowledge that universal service policies, even during this time of program transformation, have been continuously adapted to address the unique characteristics of the Alaska market. Thus GCI has had the reasonable expectation that it would continue to be eligible for ongoing support to serve these locations. Moreover, these remote locations are precisely the types of areas which are intended to be supported by high-cost support.

For Remote Alaska, this phasedown was deferred until the Commission implemented both Mobility Fund Phase II and Tribal Mobility Fund Phase II, so that legacy support and service in Remote Alaska as a whole—much of which is unambiguously high cost with very small subscriber populations—would not be reduced prior to a successor mechanism. As implemented, Remote Alaska high-cost support is currently capped at just under \$78 million per year.

² *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd. 17,663 ¶ 528 (2011) (“*Transformation Order*”).

³ *Id.* ¶ 529.

When the Commission adopted the *Transformation Order*, however, it had no good estimates of even the incremental cost of deploying 3G or 4G mobile voice and broadband service throughout Alaska to those communities that were not going to receive that level of service from the operation of the market without subsidies. GCI therefore asked the Brattle Group to develop an estimate of the incremental cost of bringing all areas not already receiving mobile voice and broadband service at an average downlink throughput of 768 Kbps and an uplink throughput of 256 Kbps.⁴ As of February 2013, the incremental costs of doing so—including capital and five years of operating costs—were a net present value of \$596 million, with projected offsetting incremental revenues of a net present value of \$63.5 million.⁵ This left a gap between costs and offsetting revenues of a net present value of \$532.5 million that would need to be filled by high cost support if the goal was to extend service at that level to all Alaskan communities. Even if one (incorrectly) assumes that none of the current support is necessary to support existing service in Remote Alaska, the current level of CETC high cost support would be wholly insufficient to close the gap.⁶ Thus, we can now state with assurance that the existing level of Alaska’s current recurring CETC support—if continued through the Mobility Fund Phase II and Tribal Mobility Fund Phase II mechanisms—would be insufficient to deliver mobile voice and broadband service at an average throughput of 768/256. Even taking into account \$43 million in one-time support under Mobility Fund Phase I and Tribal Mobility Fund Phase I,

⁴ By incremental costs, we mean that we took as given, and fully covered by existing subscriber revenue, all the costs of providing existing services. That is clearly not the case for some areas, but it was a simplifying assumption that made Brattle’s costs and necessary support estimates conservative.

⁵ We have used net present value rather than per year figures to better reflect both initial capital costs and five years of ongoing operating and maintenance expenses.

⁶ The net present value of five years of CETC support at \$105 million per year (the total of all legacy CETC support currently received by Alaskan CETCs) is approximately \$426 million.

Alaska still lacks sufficient support to extend this level of service to all communities. Even more support would be more necessary to meet a mobile broadband service level of 768/256 at the edge of the cell.

Furthermore, the experiences of the Mobility Fund Phase I and Tribal Mobility Fund Phase I auctions demonstrate the extreme variability—and therefore risk—that nationwide reverse auctions hold for Alaska wireless providers. Alaska was spectacularly unsuccessful in Mobility Fund Phase I, garnering only about 1% of the available support, but preliminarily has won approximately 82% of the Tribal Mobility Fund Phase I support. This type of variability creates a completely unstable planning environment for carriers operating in a market in which high cost support is critical to supporting rural networks. Moreover, even if Alaska were to replicate its Mobility Fund and Tribal Mobility Fund Phase I success in Mobility Fund and Tribal Mobility Fund Phase II,⁷ that would mean that Alaska would receive at most \$87 million—which is less than Alaska CETCs receive today and, as discussed above, is insufficient to deploy and operate 768/256 mobile voice and broadband service.

In light of this data, GCI proposes for Alaska a modified five-year freeze plan for the Mobility Fund II with support targeted to mobile broadband networks in areas other than those that are receiving LTE service from AT&T or Verizon. This would be a more reasonable transition plan for Alaska that appropriately takes into account the current data and well-established facts of serving these remote locations, and would still accomplish the *Transformation Order's* goals to distribute high-cost support on a more targeted and accountable

⁷ Unless the Commission dramatically reduces the scope of eligibility, GCI believes such a result is highly unlikely and that competition for Phase II support will be much stronger than it was for Phase I, given that Phase I consisted of one-time additive support, rather than a complete replacement of existing legacy support.

basis over the next five years.⁸ It would also assure continued services, and create the prospect of improved services during that time, and allow for the development of a successor mechanism informed by the experience of deploying and providing services under this interim mechanism, as well as the full deployment of the Mobility Fund and Tribal Mobility Fund Phase I winning bid areas.

A. GCI Recommends Adoption of a Modified Five-Year Freeze Plan for Mobility Fund Phase II for Alaska.

GCI's proposal is patterned after the FCC's freeze for non-contiguous state price-cap ILECs (*e.g.*, ACS) in CAF Phase II, and would begin by freezing the \$78 million in Alaska Remote Support at the current level for five years.⁹ Existing Remote Alaska support would be frozen on a company basis at the 2014 annual levels and distributed in a block amount, rather than phased down over that same timeframe.¹⁰ All Remote Alaska CETCs that elected this support would be required to use that support to support mobile voice and wireless services, irrespective of the legacy origin of that support.¹¹ Accordingly, no Remote Alaska CETC support would be supporting wireline voice and broadband services.

⁸ See FNPRM ¶ 244.

⁹ See *id.* ¶ 256.

¹⁰ See *id.* ¶ 250 (“we propose to freeze support for wireless providers serving remote areas in Alaska as of December 31, 2014, and to maintain those frozen support levels until a specified date after winning bidders are announced for ongoing support under Tribal Mobility Fund Phase II or Mobility Fund Phase II, with that date depending on whether wireless providers become winning bidders of such support”); see also *id.* ¶¶ 256-57.

¹¹ All GCI CETC support, irrespective of legacy divisions between mobile and wireline, and all ACS Wireless support would be treated as support to a single company, as all support would flow to their jointly owned Alaska Wireless Network. See *Applications of GCI Communications Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub, Inc., & Unicom, Inc. for Consent to Assign Licenses to the Alaska Wireless Network, LLC*, 28 FCC Rcd. 10433 (2013).

With respect to frozen support, a CETC electing frozen support would have to demonstrate that it was using that support to provide mobile voice and broadband services in areas that are not receiving LTE service from AT&T or Verizon.¹² This focuses frozen support on areas that are likely to need such support, much as the Commission proposes that a non-contiguous price-cap ILEC electing frozen support in lieu of CACM-based support will have to demonstrate that it used its support in areas not already served by fixed broadband and voice meeting the Commission's requirements. While GCI is still working to define specific performance requirements sufficient to demonstrate this, those requirements should focus on providing service to eligible locations, which has the advantage of being measurable and administrable, as opposed to the historical and indisputable difficulties with extensive cost reviews.

For communities without any wireless service, GCI proposes in addition that the Commission would conduct a reverse auction of up to \$27 million per year in support for carriers that would commit to deploying mobile broadband service in those communities at the level of 768 Kbps down/256 Kbps up.¹³ This amount is the amount currently being paid in Alaska CETC support other than through the Remote Alaska mechanism. This would target support specifically to these unserved communities, would provide a way for service to be introduced into these communities without duplicative support, and would be phased up as legacy non-Remote Alaska CETC support is phased down or otherwise terminated. During this five-year interim period, the Commission would determine the most appropriate successor mechanism.

¹² See FNRPM ¶¶ 244, 256.

¹³ To the extent that a CETC decided to forego frozen support or was required to repay support because of failure to meet performance objectives, that support could be added to the support for unserved areas.

One such mechanism could be a reverse auction for all areas not served by AT&T or Verizon LTE services.

B. GCI's Proposal Has Numerous Benefits that Cannot Be Realized Under the Commission's Proposal.

There are a number of benefits to GCI's proposal. First, this proposal provides Alaska wireless carriers with a stable expectation as to the support that will be available over the next five years as they continue to build out their wireless networks. Alaska is substantially behind the rest of the country in terms of the availability and level of wireless services. While at least some carriers claim to reach 98 percent of the national population with LTE, LTE is available to Alaskans today primarily in Anchorage, Fairbanks, Juneau, and some surrounding areas. Availability of LTE is critical in the transition to a single supported mobile broadband network: where the market will not support LTE absent high cost funds, loss of support for a CDMA/EVDO or GSM/UMTS provider could actually lead to shutting down one of the two families of air interfaces, reducing coverage for at least one set of wireless consumers. GCI's proposal provides a stable basis for continued development of wireless services outside of those areas.¹⁴

Second, this proposal provides better targeting and accountability with respect to the use of CETC support. All CETC support in Alaska for wireline service would immediately end and be retargeted to mobile wireless service. In addition, support recipients would be responsible for using their support for service outside of the areas in which AT&T or Verizon will provide LTE service.¹⁵ This focuses the use of CETC high cost support on providing mobile broadband services in the areas that need the support to sustain service. Third, while the specific metrics

¹⁴ See FNPRM ¶¶ 252, 257 (expressing concern about loss of service in some areas of the country, and asking if exceptions should be adopted for remote Alaska).

¹⁵ See *id.* ¶¶ 244, 252.

remain to be developed, we anticipate that there would be service and buildout requirements that reflect the support needed to sustain existing services and to upgrade mobile broadband services. Accountability is part of this proposal. Fourth, the structure of this proposal is dramatically simpler than GCI's proposal in April 2014. By starting with a freeze, this proposal satisfies the Commission's desire to streamline fund administration by eliminating line counts and reliance on legacy mechanisms.¹⁶ Finally, and perhaps most importantly, GCI's proposal explicitly provides for communities lacking any wireless service.¹⁷ Mobile service is literally a life-saving device in Remote Alaska. Providing an explicit mechanism targeted specifically at launching service to these areas will promote public safety and create economic opportunity in these communities.

II. GCI ENCOURAGES THE COMMISSION TO MODIFY ITS PROPOSALS FOR CACM-BASED SUPPORT/COMPETITIVE BIDDING IN CAF PHASE II TO ENSURE HIGH-COST SUPPORT IS USED TO EXPAND BROADBAND TO TRULY UNSERVED AREAS.

The Commission has taken several steps in the FNPRM that will help ensure that, in Alaska, incumbent providers will not be able to overbuild areas where a competitor—whether unsubsidized or not—provides broadband service.¹⁸ This is an important step. In crafting a new long-term high-cost support mechanism for fixed broadband and voice services—CAF Phase II—the Commission provided for highly targeted support for service to census blocks with costs exceeding an estimated cost threshold to be determined by a model and below a second, upper limit. The Commission also stated, however, that “the CAF will only provide support in those areas where a federal subsidy is necessary to ensure the build-out and operation of broadband networks,”¹⁹ and that support would be available “to those areas that are unserved through the

¹⁶ *See id.* ¶ 256.

¹⁷ *See id.* ¶¶ 246-47.

¹⁸ *Id.* ¶ 99.

¹⁹ *Transformation Order* ¶ 24.

operation of market forces.”²⁰ The Commission clarified in the FNPRM that, though the list of eligible unserved areas must be determined “as close as possible to the completion of the cost model,” it would not require “the unsubsidized status of a provider to be determined based on whether that provider is receiving funding at the time the cost model is completed.”²¹ Most importantly, the Commission expressly delegated the authority to determine whether a provider should be considered “unsubsidized” to the Bureau.²²

Permitting incumbent wireline ETCs to receive CAF Phase II support that allows them to match what competitive providers are already offering, and will continue to offer, after the phase out of legacy wireline CETC high-cost support, is not a good use of scarce high cost USF support.²³ It is true that the situation in Alaska, in which there are two wireline ETCs—ACS, the incumbent, and GCI—is rare. But it is also true that in most of the ACS ILEC study areas, GCI already provides more robust broadband than ACS, at more reasonable rates. And it will continue to do so even after its legacy wireline CETC support is entirely phased out during the five-year initial term of CAF Phase II.²⁴ By ensuring that any new rules for CAF Phase II do not allow incumbents to overbuild competitors, the Commission can better achieve its overarching

²⁰ *Id.* ¶ 116.

²¹ FNPRM ¶ 96.

²² *Id.*

²³ Letter from John T. Nakahata, Counsel to GCI, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 10-90 & 05-337, at 2 (filed Jan. 24, 2014) (“Mattey-Rosenberg Ex Parte”).

²⁴ Under the Mobility Fund proposal for Alaska that GCI outlined above, *see* Part I.A, *supra*, what is currently distributed as wireline CETC support would, in any event, be shifted upon implementation to support for mobile voice and broadband service. At that point, GCI’s wireline operations would be receiving no high cost support.

goal of targeting forward-looking high-cost support only in areas where “a federal subsidy is necessary to ensure the build-out and operation of broadband networks.”²⁵

A. Determination of Unserved Areas Eligible for Support Should Ensure Support Is Targeted at Those Areas that Will Not Have Access to Broadband without Support.

GCI does not believe that a CAF Phase II-eligible ILEC should be able to substitute unserved customers in a partially served census block for a wholly unserved census block.²⁶ The Commission should adopt rules that ensure support will be used for truly unserved areas, rather than for those that could easily be built out without support. The Commission and Bureau previously determined that, for CAF Phase I, attempting to parcel out support to partial census blocks would be not only administratively infeasible,²⁷ but also “may not significantly increase the number of locations that are likely to receive new broadband” and in fact, “by shifting deployments to areas where others do serve, . . . might lead to fewer previously unserved locations receiving service.”²⁸ It should not come to a different conclusion for CAF Phase II. Areas of unserved customers in a served census block should not be considered unserved.

Furthermore, CAF Phase II support should not be used to overbuild competing service of any wireline competitor, whether subsidized or unsubsidized.²⁹ Wireline support will disappear under the current and proposed CETC rules, rendering the distinction between subsidized and unsubsidized competitors moot. As GCI has noted in previous filings, the Commission’s

²⁵ *Transformation Order* ¶ 24.

²⁶ FNPRM ¶ 167.

²⁷ *Connect America Fund, et al.*, Report and Order, 28 FCC Rcd. 7766, 7783 ¶ 31 n.63 (2013) (“we conclude that it is not administratively feasible to allow partial census block challenges”).

²⁸ *Connect America Fund, et al.*, Second Order on Reconsideration, FCC 12-47, 27 FCC Rcd. 4648, 4670 ¶ 13 & n.29 (2012) (“*Second Order on Reconsideration*”).

²⁹ FNPRM ¶ 170.

universal service reforms are intended to address mistargeted support mechanisms that, in the past, did not direct support where it was most needed.³⁰ The new method of support embodied in CAF Phase II addresses this issue by determining support first on a cost-based model and then, if the ILEC does not make a statewide election, based on a reverse auction.³¹ To therefore apply the “unsubsidized competitor” test in a way that would continue to allow support to be mistargeted would undermine the purposes of the *Transformation Order*.

To that end, GCI supports the Commission’s proposed “qualifying competitor” proposal.³² If the Commission excludes from support ETCs that will lose support as a result of the CETC support phase down, or other support elimination (such as the loss of support by an ILEC that fails to make a statewide election and that also does not win the subsequent reverse auction), the Commission will be directing high-cost support to areas in which continued high-cost support is *not* necessary to ensure the provision of service. It will also permit the recipient ETC to use high-cost support to overbuild a competitor.

For instance, GCI provides 15 Mbps downlink and 1 Mbps uplink with 100GB of included usage in much of ACS’s service area for \$69.99 per month. This is substantially below the price shown on ACS’s website for 4 Mbps downlink and 1 Mbps uplink service, which is \$89 per month. GCI also already offers uplink speeds at 1.5 Mbps per month; ACS does not. Thus GCI already offers service that exceeds the Commission’s proposed performance obligations in major communities in ACS’s service areas. GCI will continue offering its wireline broadband service in the core areas it already serves when it loses wireline high-cost support.

³⁰ See, e.g., Reply Comments of General Communication, Inc. on the Design of the Remote Areas Fund, WC Docket No. 10-90, at 6 (filed Apr. 12, 2013) (“Reply Comments of GCI on CAF Phase II Public Notice”).

³¹ *Transformation Order* ¶¶ 165-179.

³² FNPRM ¶ 178.

But if the Commission were to deem GCI not to be an “unsubsidized competitor” eligible for support, then in each census block in these communities in which GCI provides service, ACS would be able to receive support (unless a fixed wireless provider was also capable of providing service meeting the unsubsidized competitor requirements).³³ This necessarily means that ACS would be receiving high-cost support to upgrade its service in those census blocks—*i.e.*, to overbuild GCI’s existing service—rather than to extend broadband to the unserved or underserved locations that, today, have *no* choice for broadband service. It is also likely that the areas most likely to be allocated support would be those with a higher number of residences, businesses, and community institutions—rather than the higher cost communities without any fixed broadband service.

GCI illustrated this concern in its filings in reply comments related to ACS’s petition for review of Paragraph 41 of the *CAF Phase II Service Obligations Order*.³⁴ In those reply comments, GCI pointed out that there are very few census blocks in which ACS is the sole provider of 4 Mbps up/1 Mbps down broadband service. Rather, in five ACS study areas, GCI provides qualifying broadband service in 79 percent of census blocks, and is the only qualifying broadband provider in 21 percent of census blocks. In comparison, ACS is the sole provider of qualifying broadband service in just eight percent of census blocks. Failing to treat GCI as an unsubsidized competitor would mean that ACS would not only be eligible for support in the small number of census blocks where GCI does not offer qualifying service, but would also be

³³ See Opposition of General Communication, Inc., WC Docket Nos. 10-90 & 05-337, at 8 (filed Dec. 11, 2013) (showing census blocks in ACS’s study areas in which GCI provides service that meets or exceeds the service obligations for support) (“GCI Opposition to ACS Petition for Review”).

³⁴ Reply Comments of General Communication, Inc., on ACS Petition for Review, WC Docket No. 10-90, at 4 (filed Dec. 23, 2013) (“GCI Reply Comments”); *Connect America Fund*, Report and Order, DA 13-2115, 28 FCC Rcd. 15,060 (2013) (“*CAF Phase II Service Obligations Order*”).

eligible for support in the much greater number of census blocks where GCI does offer qualifying service. This result would do nothing to improve broadband availability; it would simply subsidize ACS, the trailing competitor, to duplicate existing service. This cannot be squared with the Commission's goals.

The Commission's "qualifying competitor" proposal ensures that the limited funds available for high-cost support are not mistargeted.³⁵ GCI also supports extending the "qualifying competitor" standard to other rules that reduce or eliminate support in areas with unsubsidized competitors. In particular, GCI supports application of the 100 percent overlap rule where any qualifying competitor overlaps the incumbent.³⁶

GCI also reiterates that the Commission's goals would be better served by lifting the \$3000 per line cap that is currently in place to allow greater flexibility in addressing unserved areas that may be servable. Increasing the extremely high-cost threshold for Alaska would reflect the higher cost of serving the state, which would in turn provide support that is more targeted to rural areas, rather than to Alaska's larger communities. Doing so would also reduce the burden on the Remote Areas Fund, which is limited in size, and may avoid forcing remote areas into higher latency satellite-based services.³⁷

³⁵ FNPRM ¶ 178.

³⁶ *Id.*

³⁷ *See* Matthey-Rosenberg Ex Parte.

B. The Commission Should Modify Its Proposed Standards Where Necessary to Ensure that Support is Not Unreasonably Denied.

1. Downstream Speed Standards

GCI generally supports the Commission’s proposal to require a downstream speed standard of 10 Mbps.³⁸ This standard will ensure that rural customers have access to comparable advanced telecommunications and information service as in urban areas. GCI, however, believes that Commission should clarify that this standard will apply only to fiber-served backhaul areas, rather than any areas served by microwave or satellite backhaul.

Imposing a 10 Mbps downstream requirement does not make sense in areas where backhaul is provided by microwave or satellite. Because fiber-based backhaul does not exist and is not likely to exist in many parts of Alaska, those areas are likely to rely on some form of non-fiber backhaul for the foreseeable future. Thus in those areas, an unconditional 10 Mbps downstream requirement would do nothing more than ensure that those areas will never be eligible for support.

But in areas where fiber-based backhaul is available—which are the areas along the road system and adjacent to the fiber routes in southeastern Alaska—a 10 Mbps downstream standard will further the Commission’s statutory goals. As GCI has noted in the record in this and other proceedings, GCI generally offers service at speeds capable of meeting this proposed benchmark.³⁹ Indeed, GCI offers an advertised speed of greater than 10 Mbps to 74.3 percent of the population, compared to a statewide total of 80 percent. This percentage is somewhat lower in the ACS Glacier State/Sitka study area—57.9 percent—but is greater than that offered by ACS—45.6 percent of the population. Similarly, GCI offers upload speeds exceeding 1.5 Mbps

³⁸ FNPRM ¶ 140.

³⁹ See, e.g., GCI Reply Comments on CAF Phase II Public Notice at 3.

to 76.5 percent of the population, compared to 77 percent statewide. And it offers these speeds at lower rates than ACS.⁴⁰

2. 100 GB Usage Cap

GCI generally supports the Commission’s proposed 100 GB usage requirement.⁴¹ However, as with the downstream speed standard, the Commission should impose a lower minimum included usage requirement in non-fiber served areas. In areas without fiber backhaul, GCI is able to provide 100 GB included usage only in its most expensive plans, due to the cost of backhaul capacity in these areas.

3. Determination of “Service Area”

ETCs, whether ILECs or CETCs, should have high-cost obligations only for areas in which they receive support.⁴² Such an interpretation would be consistent with the statutory language, which specifies that ETCs shall offer services supported by federal universal service “throughout the service area for which the designation is received.” “Service area” is not a statutorily defined term, and the Commission has the authority to interpret it in a way that furthers its overarching policy goal.

As GCI has stated in these comments and elsewhere in the record, that goal should be to ensure the best and highest use of high cost support. Requiring ETCs to meet high-cost obligations in areas for which they do not receive support, however, would undermine that goal. In many cases, ETCs will be simply unable to build out networks that meet the high-cost obligations without support. In other cases, though, ETCs may be able to provide service that

⁴⁰ GCI Opposition to ACS Petition for Review at 8.

⁴¹ FNPRM ¶ 149.

⁴² *Id.* ¶ 197.

falls short of the high-cost obligations even without support. Requiring those ETCs to meet the high cost obligations anyway would discourage the build out of even that service.

C. The Commission Should Modify Its CAF II Non-Contiguous Frozen Support Proposal to Acknowledge Technological Limitations in Certain Rural Areas.

The Commission has proposed that non-contiguous carriers electing to receive frozen support be subject to the same public interest service standards as those receiving model-based support.⁴³ GCI generally agrees with this proposal. However, in non-fiber served areas, GCI encourages the Commission to adopt modified requirements that acknowledge the differences in backhaul technology. In Alaska, non-contiguous carriers often rely on non-fiber backhaul, technologies that may increase the costs of providing service.

Thus, for instance, GCI encourages the Commission to adopt the same speed requirements for non-contiguous support as for contiguous support—including standards that reflect backhaul technology. For example, the highest standards would then apply to fiber-served areas, intermediate standards to terrestrial non-fiber, and the existing lower level standards would continue to apply to non-terrestrial backhaul. Not only would this recognize the technological limitations of non-fiber backhaul, but it would also be simpler to administer than the Commission’s proposal to accept variable standards based on specific proposals from non-contiguous carriers.⁴⁴

In addition, while GCI agrees with the Commission’s proposal to apply comparable rates to services offered in urban areas, the Commission should impose that requirement only on fiber-served areas. GCI does not oppose a minimum usage standard set at 100 GB per month or a minimum latency of 100 ms for fiber-served areas. The Commission, however, should clarify

⁴³ *Id.* ¶ 203.

⁴⁴ *See id.*

that these requirements do not apply to areas served by non-fiber backhaul—namely, satellite and microwave. In particular, these usage and latency minimums would be impossible to meet in those areas served by satellite backhaul. Instead, the existing satellite exception should continue to apply in those areas. In areas served by microwave backhaul, limited capacity likewise necessitates a different pricing structure than for communities that can be reached with fiber backhaul.

GCI also agrees with the Commission that support should not be used where there is a terrestrial provider meeting fixed broadband performance requirements, but asks the Commission to clarify that this restriction will be applied on a census block basis. Finally, GCI supports a five year term for non-contiguous carriers electing to receive frozen support.

III. THE COMMISSION SHOULD ENSURE THAT SUPPORT IS SUFFICIENT TO PERMIT RATE-OF-RETURN CARRIERS TO PURCHASE MIDDLE MILE SERVICES RATHER THAN PROVIDING ONE-TIME SUPPORT FOR THE CONSTRUCTION OF INTEREXCHANGE FACILITIES BY RATE-OF-RETURN LECs.

The FNPRM’s proposal to provide \$10 million in one-time support for new middle mile construction on Tribal lands attacks the right problem—lack of sufficient middle mile infrastructure—but goes about it in the wrong way. As proposed, the FNPRM would provide rate-of-return local exchange carriers with a grant to provide *interexchange* facilities. Without even a mention of the principle of competitive neutrality,⁴⁵ the FNPRM’s proposal would actually exclude both other ETCs and interexchange carriers—who cannot be ETCs—from receipt of support for this interexchange service. Nor does the FNPRM address the issues of potential cost misallocation that would be presented by providing one-time support to a rate-of-return local exchange carrier for the construction and operation of interexchange facilities—a

⁴⁵ See *Federal-State Joint Board on Universal Service*, First Report and Order, FCC 97-157, 12 FCC Rcd. 8776, ¶ 43 (May 8, 1997) (“*Universal Service First Report and Order*”).

problem, which if not adequately policed, could inflate a rate-of-return LEC's claims for other high cost support.⁴⁶ A much cleaner solution would be for the Commission to ensure that, as it calculated future CAF support for rate-of-return carriers, it adequately accounted for the expense associated with a rate-of-return LEC's purchase of middle mile services, rather than bringing middle mile interexchange facilities into the rate-of-return carrier's ratebase.

A. Support Should Be Provided For Areas Served By Rate-Of-Return Carriers Rather Than For Rate Of Return Carriers Themselves.

Like all other Alaska carriers, GCI recognizes that, while Alaska has fiber-based terrestrial middle mile in some parts of the state, Alaska lacks a sufficient broadband infrastructure to deliver high quality broadband areas to all areas of the state.⁴⁷ Indeed, GCI has been the only Alaska carrier currently building substantial new terrestrial middle mile infrastructure, using a combination of substantial private capital and a Rural Utility Service Broadband Infrastructure Program grant and loan. As of March 2014, GCI has invested more than \$156 million in private at-risk capital in constructing its TERRA terrestrial middle mile fiber/microwave network. And that work is not yet done. GCI still has many tens of millions of

⁴⁶ See *Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*, Second Report and Order in CC Docket No., 96-149 and Third Report and Order in CC Docket No. 96-61, FCC 97-142, 12 FCC Rcd. 15756, ¶ 231 (Jul. 3, 1997) (“*LEC Classification Order*”).

⁴⁷ Comments of Alaska Rural Coalition in the matter of Connect America Fund, WC Docket No. 10-90 *et al.*, at 4-5 (filed Jan. 18, 2012) (“ARC USF Comments”) (“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.”); GCI's Comments Regarding the FCC's Notice of Proposed Rulemaking in the matter of Investigation into the Impact on Alaska Consumers and Carriers of Universal Service Reform by the Federal Communications Commission, Docket No. R-10-03, before the Regulatory Commission of Alaska, at 8 (filed Dec. 30, 2011) (“In rural Alaska, the most significant barrier to higher speed broadband services of any type—wireline or wireless—is the lack of sufficient broadband middle-mile that has the capability to expand with demand. Satellite capacity is limited and will not grow cost-effectively as demand expands.”).

dollars more that it must raise and invest just to close its TERRA ring—which would then double TERRA’s effective capacity.

Ironically, however, the FNPRM’s proposal to provide support for middle mile “for rate of return carriers” would exclude GCI from competing for the \$10 million one-time middle mile support—except in the area served by its United Utilities subsidiary which is already served by TERRA. GCI is an ETC (either wired or mobile wireless) in many parts of Alaska, but other than in the United Utilities service area, GCI is not a rate-of-return carrier. Framing this as one-time support “for rate-of-return carriers” rather than “for rate-of-return carrier served areas” violates competitive neutrality—one of the Commission’s core principles for universal service policy—and turns what should be a pro-consumer policy into a pro-rate-of-return ILEC policy that will not lead to the most efficient use of universal service support. At a minimum, this could be addressed by expanding eligibility to compete for the \$10 million in middle-mile support to all ETCs serving rate-of-return carrier served areas.

The principle of competitive neutrality states that “[u]niversal service support mechanisms and rules should be competitively neutral,” which means that they should not “unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”⁴⁸ A key reason to maintain competitive neutrality is that competitive neutrality maximizes the number of potential suppliers and thus fosters the Commission’s goal of getting the most universal service benefit from every dollar spent.

Another way to provide support to rate-of-return carriers is not by direct grants for capital construction of interexchange facilities, but by funding their purchases of middle mile services.

⁴⁸ *Transformation Order* ¶ 176 (quoting *Universal Service First Report and Order* ¶ 47).

Providing support for purchases permits the rate-of-return carrier to stimulate demand for middle mile services, but allows the market to select the most efficient provider

One benefit of supporting purchases of middle mile capacity rather than providing construction grants is that, in Alaska as in many other areas, middle mile services are *interexchange* services, not local exchange services. Interexchange carriers may be much more efficient providers of this interexchange service because they operate across multiple ILEC service areas, and not just within one ILEC's service area—just as the middle mile network will have to do. It cannot be argued that rate-of-return ILECs are more expert than interexchange carriers at building and managing interexchange facilities, or that they have the only networks that are likely to be deployed in these areas. In Alaska, by state law interexchange carriers handle all intervillage communications—which in general has been a competitive market with at least two providers. There is no tandem infrastructure in Alaska. Rate-of-return LECs (apart from any interexchange affiliates they may have) handle only traffic within their local service areas.

Thus, if the Commission proceeds with one time middle mile support, it should do so on a competitively neutral basis, by supporting rate-of-return carriers' purchases of the middle mile capacity they need to provide broadband services, rather than by funding rate-of-return carriers' construction of interexchange middle mile facilities.

B. The FNPRM Fails to Consider Potential Cost Misallocation.

One major issue overlooked in putting forth the proposal to provide one-time support to rate-of-return ILECs to support middle mile construction and operation, is the potential for cost misallocation. Presumably the rate-of-return ILEC would be receiving support to provide in-region interexchange middle mile services. Providing one-time support to the ILEC ETC suggests that such interexchange facilities will be provided from within the ILEC. For rate-of-

return carriers, such a structure would raise concerns of cost misallocation between the supported but potentially competitive interexchange middle services, and local voice and broadband services for which the ILEC would also be receiving support.⁴⁹ This could be significant because rate-of-return calculations underlie both existing rate-of-return ILEC high cost support mechanisms (*e.g.*, High Cost Loop Support and Interstate Common Line Support), as well as many of the proposed rate-of-return ILEC CAF mechanisms.

C. The Commission Should Exclude Support for Terrestrial Middle Mile in Areas That Already Have Terrestrial Middle Mile.

The Commission should appropriately exclude support for terrestrial middle mile in any areas that already have terrestrial middle mile. The Commission has eliminated such overlapping support on a number of occasions. In doing so, the Commission has proclaimed that “[s]upport should be used to further the goal of universal voice and broadband, and not to subsidize competition in areas where an unsubsidized competitor is providing service.”⁵⁰ To support its application in an area with no additional capacity, a bidder should be required to show that it requested capacity along the route, but was turned down for lack of capacity.⁵¹

⁴⁹ See *LEC Classification Order* ¶ 7 (“We therefore require the independent LECs to provide their in-region, interstate, domestic, interexchange services through separate affiliates that satisfy the separation requirements adopted in the Competitive Carrier Fifth Report and Order”).

⁵⁰ *CAF Report and Order and FNPRM* ¶¶ 149 nn.238 & 280 (explaining that “in many areas of the country, universal service provides more support than necessary to achieve [the FCC’s] goals by subsidizing a competitor to a voice and broadband provider that is offering service without governmental assistance.”). See generally 47 U.S.C. § 254(b)(5) (universal service support should be “sufficient” to preserve and advance universal service). See also *In re FCC 11-161*, 753 F.3d 1015, 1075 (10th Cir. 2014) (determining that the FCC’s decision to eliminate high-cost support where an unsubsidized competitor offers the relevant service to all customers in the same study area was lawful and supported by substantial evidence); *Alenco Commc’ns., Inc. v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000) (noting that “excessive funding may itself violate the sufficiency requirements of the Act.”).

⁵¹ See generally Comments of General Communication, Inc. on Design of the Remote Areas Fund, WC Docket No. 10-90, at 4 (filed Feb. 19, 2013) (“In Alaska, the key to maximizing

D. The Commission Should Encourage Use of Matching Funds From Both Public and Private Sources.

The Commission seeks to “encourage multi-stakeholder partnerships in the creation of competitive proposals” that “would encourage contributions from state and Tribal government or entities.”⁵² The Commission should certainly proceed with encouraging the use of matching funds to leverage its \$10 million in support. However, it should not limit such matching funds to those provided by state or Tribal governments or entities. Rather, matching funds should come in the form of private investment as well. Indeed, both the BIP and BTOP programs successfully permitted public as well as private capital for matching funds.⁵³ The dual investment-source model adopted and executed by each of these programs could serve as a guide for a similar investment model under the instant proposal. There is no reason that multi-stakeholder partnerships should not include non-public stakeholders. The Commission should also consider making available bidding credit to applicants who can leverage private sources of funding for the project on a dollar for dollar basis.

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.”).

⁵² FNPRM ¶ 305.

⁵³ FCC, *Bringing Broadband to Rural America: Update to Report on A Rural Broadband Strategy* at 2 (June 17, 2011), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-320924A1.pdf (“During this time, the public and private sectors have made substantial investments to extend and upgrade broadband networks—including in some instances as a result of voluntary commitments to the Commission. This investment has included approximately \$8 billion in grants and loans to expand broadband deployment and adoption in unserved and underserved areas under RUS Broadband Initiatives Program (BIP) and NTIA’s Broadband Technology opportunities Program (BTOP), as well as grants and loans provided by RUS for rural communications networks through ongoing programs”).

E. The Commission Should Not Adopt a Mechanism Which Requires Recipients of Funding to Charge Rates that Are “No Higher than Rates for Comparable Connectivity in Urban Areas” or “Discounted Rates Available to Recipients of Funding Under the E-Rate or Rural Health Care Programs”⁵⁴

The proposals to require that middle mile connectivity rates be no higher than urban areas or no higher than discounted E-Rate or rural health care rates are wholly unworkable. Given that a significant component of remote rural middle mile is the need to create transmission facilities over vast distances, the only way that urban rates could be charged—if at all—is if the entire cost of putting in place the middle mile facility was subsidized, and the operating costs did not exceed urban operating costs. This is highly unlikely. Indeed, such a requirement would preclude middle mile support from being leveraged with private capital and thus preclude many efficient uses of support.

Additionally, the Commission should not require supported middle mile providers to match E-Rate and rural health care discounted rates, which are supported by substantial subsidies. Such a requirement would make it nearly impossible to provide middle mile service in areas so remote that they do not today have terrestrial middle mile facilities. The Commission’s proposed requirement would also allow competing carriers to purchase middle-mile capacity at steep discounts and resell that capacity to E-Rate and RHC customers at prices much, much lower than the carrier that built and operates the middle-mile facilities could afford to offer. That result is both irrational and unsustainable.

⁵⁴ FNPRM ¶ 307.

IV. CONCLUSION

The Commission appropriately and soundly continues to recognize Alaska's unique geographic, demographic, climatological, and underlying infrastructure challenges. Given the well-documented and undeniable need for universal service support to deploy and sustain modern telecommunications and broadband networks in Alaska, GCI urges the Commission to ensure that high-cost reform in Alaska focuses on targeting support where it can be best used to expand broadband access to communities that have little or no access today.

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