

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	

**REPLY COMMENTS OF THE
REGULATORY COMMISSION OF ALASKA**

Date: February 17, 2012

T.W. Patch, Chairman

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REPLY COMMENTS OF THE REGULATORY COMMISSION OF ALASKA

The Regulatory Commission of Alaska (RCA) appreciates this opportunity to provide additional comments in response to the FCC 11-161 Report and Order and Further Notice of Proposed Rulemaking (the CAF Order or the FNPRM) concerning the Connect America Fund (CAF) and universal service fund (USF) issues.¹ The comments filed by Alaska's carriers and other interested parties are

¹ In the Matter of: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange

consistent with the themes of the RCA's initial comments regarding sections A – K of the FNPRM.

Alaska presents the Federal Communications Commission (FCC) with a difficult paradigm. The FCC has recognized that the cost of providing meaningful connections between Alaska and the world via telecommunications and broadband service is extremely high relative to the rest of the nation. The FCC has also recognized that small, remote, sparsely populated Alaska communities should not be excluded from modern service and benefits solely on the basis of high costs. Balancing the high costs of service delivery with the FCC's stated purpose in proposing reform, "to ensure robust, affordable voice and broadband service, both fixed and mobile." will be difficult. As Alaska's minerals, including gold, petroleum, and vital rare earth minerals are developed, and as its citizens continue living in the very communities where these resources are located, the FCC should be committed to making meaningful, modern day useful service available in Alaska.² With that in mind the RCA

Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Universal Service Reform-Mobility Fund, WT Docket No. 10-208. *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 released November 18, 2011. 76 Fed. Reg. 73830 (Nov. 29, 2011).

² Besides resource development opportunities that may be enabled by improved infrastructure, the human cost for communities left out of the improvements broadband can bring are a real concern in Alaska. E.g., the comments of the Tanana Chiefs Conference filed in FCC WC Docket 10-90 on January 17, 2012, pages 2 – 3 (TCC comments) discuss the high suicide and unemployment rates as well as the health issues that plague the small communities of Interior Alaska. The comments are on behalf of Tribal communities that cover an area larger than the state of California and include hope that reforms that enable, rather than impede, investment in broadband in their communities will make real improvements possible:

offers its comments hopeful that they will assist the FCC in recognizing the difficulties presented as USF support changes and hopeful that an infrastructure can be developed and supported in Alaska whereby the state and the nation benefit.

I. The support that will be provided to Alaska's carriers as a result of the reforms will not be sufficient.

The FCC attempted to remedy some of the shortfall in support that Alaskan carriers will experience through its accommodations for Remote Alaska³ and Tribal lands.⁴ Remote Alaska includes most of the state's geographic area and all of Alaska has been considered to be Tribal land for the FCC's purposes. Even with these accommodations, however, the CAF support will not be sufficient. General Communication, Inc's (GCI) summarized the situation well by stating that the FCC's proposed USF mechanisms will not provide sufficient support for voice and the FCC has not determined the cost of provisioning broadband service to reflect the unique realities of Remote Alaska.⁵

TCC is convinced that many, if not all of the socioeconomic, health care, public safety, education and cultural preservation challenges impacting the TCC region can be addressed in a meaningful way with the deployment of ubiquitous and affordable broadband technology to homes and anchor institutions.

³ Footnote 876 of the Order: For purposes of this Order, we treat as remote areas of Alaska all areas other than the study areas, or portions thereof, that include the three major cities in Alaska with over 30,000 in population, Anchorage, Juneau, and Fairbanks.

Paragraph 529 of the Order explains that the five-year phase out of identical support in Remote Alaska is delayed for two years.

⁴ Footnote 197 of the CAF Order: Throughout this document, "Tribal lands" include any federally recognized Indian tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act.

Funding set asides of \$50 million and \$100 million (paragraph 28 of the Order) have been established for Tribal lands as part of Phase I and Phase II of the Mobility Fund, respectively.

⁵ *Comments of General Communication, Inc.* (GCI comments), filed in FCC WC Docket 10-90 on January 18, 2012, page 6:

The implications for Alaska are enormous, and are demonstrated by both the Tanana Chiefs Conference (TCC) comments noted above and the Alaska Communications Systems Group, Inc's (ACS) comments. ACS stated that carriers of last resort (COLR) should be relieved of obligations to provide voice service if there is insufficient revenue, including federal and state support.⁶

Alaska stepped up to the access charge reform plate with the result that consumers in the state not only pay a \$3.75 per month charge comparable to the federal subscriber line charge of \$6.50 (a charge that will increase over four years to \$5.75), they also pay a surcharge on their telecommunications services of 9.5 percent. Most of the surcharge is to fund carrier of last resort network costs no longer recovered from interexchange carriers as a result of access charge reform. Some Alaska consumers now pay monthly charges in excess of \$30 and so will not be required to pay the additional Access Recovery Charge⁷ (ARC) but others will again see their monthly fees increase. By shifting funding currently used to keep voice service in Alaska available and affordable to instead support

Ultimately, however, the Commission must come to grips with the simple fact that none of the Connect America Fund's various mechanisms as currently implemented or proposed are likely to bring broadband, fixed or mobile, to much of Remote Alaska. The Commission thus should, at a minimum, provide sufficient, predictable support to ensure that Remote Alaska has comparable voice services—specifically, modern wireless capabilities—to the rest of the United States, and determine how much it believes it will cost to deliver broadband service to Remote Alaska, under a defined set of performance obligations.

⁶ *Comments of Alaska Communications Systems Group, Inc.* (ACS comments), filed in FCC WC Docket 10-90 on January 18, 2012, pages 10-11:

. . . the FCC should not impose public service requirements not adequately supported by universal service funding. To the extent that the Commission continues to defer to the states regarding COLR obligations, states should be instructed to ensure that adequate revenues are available to compensate providers for these ongoing obligations. Where such revenues or state-sponsored support mechanisms are not forthcoming, or are insufficient, providers should be allowed relief from state COLR obligations.

⁷ CAF Order, paragraph 852. The ARC starts at \$.50 and increases by \$.50 each year up to \$2.50 for residential and single line business customers. The ARC will be commented on further in the RCA's comments on intercarrier compensation reform issues to be filed February 24, 2012.

broadband service in other parts of the country, the FCC puts Alaska in the position of funding the potentially significant shortfall itself, allowing consumer rates to reach unaffordable levels in many communities or to have communities lose access to basic telephone service altogether. This is clearly contrary to the intent of universal service funding.

II. Unique Alaskan circumstances call for unique Alaskan support.

Very little of Remote Alaska is served by fiber optic cable. This fact is apparent from the map filed as Exhibit A of the RCA comments in this proceeding.⁸ This lack of access to fiber facilities has two major implications: 1) Meeting performance requirements is expensive, if not impossible; and, 2) competing for support with areas of the country that have better access to fiber is likely out of the question for carriers serving Remote Alaska. This is true even if the pool of competitors is limited to carriers serving Tribal lands. The only way to ensure support will reach Remote Alaska is to designate funding for that specific purpose.

The closest access to the Internet for the entire state of Alaska is Seattle, Washington. This means carriers within the state are held responsible for performance requirements utilizing facilities that not only extend beyond their service areas but beyond state boundaries.⁹ The distance between Nome, Alaska and Seattle is 1,975¹⁰ miles, but under the modified USF mechanisms, the cost of

⁸ *Comments of the Regulatory Commission of Alaska*, filed in FCC WC Docket 10-90 on January 18, 2012 (RCA comments).

⁹ Pages 43 and 44 of the CAF Order contain diagrams of wireline and wireless terrestrial broadband networks. ¶111 explains that network performance will be measured at points 2 and 5 on the diagrams to determine if the support recipient is in compliance with broadband performance metrics. Point 2 is the Internet gateway or peering exchange. For Alaska, the nearest Internet gateway is Seattle.

¹⁰ Based on distance calculator at

<http://www.timeanddate.com/worldclock/distanceresult.html?p1=182&p2=234>

transport between the two locations – the middle mile – is not supported. There is no comparable situation in the contiguous United States. To provide a concept of the distance involved, a carrier in Phoenix, Arizona would have to include the cost of transport to connect to the Internet at a peering exchange¹¹ 1,982 miles away in Washington, D.C. When considering the small size of the communities in Remote Alaska,¹² it is clear that such service cannot be provided unless the cost of transport is supported by the CAF.¹³ For example, Nome with a population of less than 4,000 is a large community by Remote Alaska standards. It is the only community in that region of the state with more than 750 people. Funding of middle mile costs is absolutely critical for Alaska to have access to services that can in any way be considered to be comparable.

Extremely limited fiber facilities and lack of access to the Internet are unique to Alaska¹⁴ and require unique solutions. These facts in addition to those that have been repeatedly cited in comments about our state¹⁵ – that it's very big

¹¹ A peering exchange or peering point is a place where many networks interconnect together to exchange traffic on a peering basis - that is a place where many networks peer. It allows a network to peer with many other networks but only endure the expense of a connection to one place. <http://www.ugh.net.au/~andrew/peering/explanation.html>

¹² Nome, with less than 4,000 people, is large by Remote Alaska standards as this excerpt from page 32 of the Bering Strait Comprehensive Economic Development Plan of 2009 (<http://commerce.alaska.gov/ded/dev/oedp/pubs/BSDC-CEDS2009.pdf>) illustrates:

In 2000, community populations varied from approximately 3,505 in Nome (52 percent Alaska Native), with other communities ranging from 122-725 persons. The population in this region is about 75 percent Alaska Native according to the U.S. Census. Approximately 1/3 of the region's population resides in Nome, the area's largest community and commercial hub. The second, third and fourth largest communities are Unalakleet (725), Savoonga (686), and Gambell (639), respectively.

It is interesting to note that page 92 of the document describes the existing communications infrastructure:

Every community has access to telephone, internet, and cable service. The problem is that their services are slow because of reduced broadband access. Most communities have cell phone service but the range is very limited.

¹³ The protracted nature of broadband service in Alaska also supports the statements in the ACS comments that broadband performance requirements in Alaska should be only for the network components the carrier can control. ACS comments, page 3.

¹⁴ Other states may not have a peering exchange within their boundaries but the distances involved would not be as significant.

¹⁵ GCI provides insight into additional relevant factors in its discussion about the lack of electrical infrastructure. GCI comments, pages 3 – 4.

but with a very small population, the construction season is very short, there are areas of permafrost, tundra, mountain ranges, and harsh weather as well as other difficulties all mean that any support mechanism that will truly allow Alaska to achieve comparable service at comparable rates must include middle mile support and must have funding targeted to the state. Clearly the current modifications – delaying the phase out of identical support for two years and setting aside limited funding for Tribal lands – will not provide sufficient support for our state. The RCA urges the FCC to support middle mile costs in Alaska and to target funding directly to the state as it considers Alaska-specific rules.

III. Middle mile issues in Alaska require special consideration.

The middle mile was a common topic among Alaskan commenters: The impact on performance metrics if it isn't adequate, the lack of terrestrial and satellite facilities, the inadequacy of satellite as a substitute for terrestrial transport, and the cost to construct and access terrestrial middle mile facilities were concerns often repeated by comments.¹⁶ As stated, the distances involved to reach the Internet and the lack of existing fiber facilities over which to do so create a requirement for middle mile support. The RCA agrees with the Alaska Rural Coalition (ARC) comments noting that support must be provided both for the construction and for access to middle mile facilities.¹⁷

The cost to support broadband networks in Remote Alaska has not yet been determined.

¹⁶ ACS comments, pages 17 and 21; Comments of the Alaska Rural Coalition (ARC comments), filed in FCC WC Docket 10-90 on January 18, 2012, pages 4 – 8, 25, 28-30 and 32; GCI comments, pages 2 – 3, 9, 12-13 and 26;

¹⁷ ARC comments, pages 28 – 29: Although construction of backbone facilities is critical to providing more access to broadband, providing high cost support for access to those facilities is equally important for small carriers and their customers.

At least two Alaskan entities, ACS and GCI, are developing models of the cost to provide networks that meet the FCC's specifications in Alaska. For wireless, GCI is modeling the cost of a 3G network while ACS's model is to determine the cost of meeting the targeted minimum capacity of 4 mgs down/1 mg up. As GCI states in its comments, the FCC must define the level of service supported providers are expected to deliver and either provide support for that level of service or adjust the minimum service requirements to match the level of support provided.¹⁸ ACS filed its model with the FCC confidentially on February 13, 2012, but shared preliminary results at a technical conference with the RCA on February 2, 2012.¹⁹ ACS estimates the annual cost to provide broadband in ACS's service areas will be between \$30 and \$35 million.²⁰ Until cost estimates for all of Alaska have been compiled and considered, the RCA has no means of assessing the adequacy of the FCC's proposed funding mechanisms and urges the FCC to remain flexible with regard to funding Alaska's Internet infrastructure.

Satellite and microwave facilities have limited capacity to provide middle mile transport.

While there is general recognition that satellite broadband cannot meet the expected performance standards,²¹ microwave facilities also have limitations. Service provisioned over microwave does not have the latency problems of satellite,²² but it does have capacity limitations. Achieving the Order's performance

¹⁸ GCI comments, page 13.

¹⁹ The RCA hosted a technical conference on February 2, 2012. It was attended by representatives of all of the state's certificated local and interexchange carriers.

²⁰ In a filing with the FCC, *Comments of Alaska Communications Systems Group, Inc.* in WC Docket No. 10-90 on February 1, 2012, ACS explains how its model is based on the ABC Coalition's model with Alaska-specific modifications but that in many respects ACS believes the model still understates the cost of deploying broadband in Alaska.

²¹ E.g., paragraph 101 of the CAF Order.

²² Because of the distances signals must travel when satellite facilities are used, latency remains an issue. Footnote 146 of the Order discusses differing perspectives on the matter but the

obligations would require expensive deployment of additional microwave facilities because existing facilities do not have capacity that can expand to meet growing requirements of broadband services.

Limitations of microwave-based services provide an additional basis for a “blanket” waiver of the FCC’s performance requirements as the RCA recommended in its January 18 comments.²³ The RCA again urges the FCC to allow for a streamlined waiver process. To require many or perhaps nearly all of Alaska’s carriers to file the voluminous, complex waiver requests²⁴ required by regulation when it is known at the outset that the performance standards cannot be met would not be a wise use of carrier, RCA or FCC resources. Similarly, the RCA supports the ARC’s contention that the cost of middle mile transport in Alaska must be considered. The FCC’s requirement that a supported carrier must utilize terrestrial facilities where available, regardless of cost, is not in the public interest.²⁵ An alternative to the burdensome waiver process should be provided for Alaska providers.²⁶

IV. Remote Areas Fund

Support must be sufficient to achieve an acceptable level of service.

understanding conveyed at the technical conference is that the latency involved with satellite middle mile is a matter of physics.

²³ Page 7 of the RCA’s comments gave, as an example of a systemic need for waiver, the lack of terrestrial backhaul coupled with insufficient satellite capacity. Given this new information regarding satellite latency and microwave capacity constraints, the RCA would revise this prior statement to include any location not served by fiber or adequate microwave capacity.

²⁴ Paragraphs 540 – 543 of the CAF Order describes the waiver request requirements, which the FCC envisions granting only if denying it would put consumers at risk of losing voice services with no alternative terrestrial provider and will consider whether specific reforms could cause default on loans or insolvency. Exhibit A includes the full list of information required for a waiver request.

²⁵ CAF Order paragraph 101, footnote 162: This limited exemption is only available to providers that have no access in their study area to any terrestrial backhaul facilities, and does not apply to any providers that object to the cost of backhaul facilities.

²⁶ ARC comments, pages 6-7.

The RCA appreciates the concept of a separate Remote Areas Fund in recognition that there are some locations in which it is simply too expensive to provide broadband comparable to what is expected in the more densely-populated, easily accessible parts of the country. Many of these high cost locations will be in Alaska. As stated in the RCA's and GCI's comments, a fundamental problem is that the FCC has not determined the level of funding that will be required to ensure the minimum acceptable level of service in remote areas but has instead established an arbitrary budget amount.²⁷ The ARC also noted that "...broadband performance requirements must reflect the technical and economic constraints of [Remote Alaska]." These concepts essentially describe an equation: performance obligations must be in balance with the level of revenues (including support) available:

$$\text{Cost of Performance Obligations} = \text{Revenues and Support}$$

The RCA encourages the FCC to establish the Support element of the equation consistent with the universal service principle of comparable service at comparable cost. To do otherwise does not meet the requirement that support must be sufficient.²⁸

FCC CAF policies may result in significant stranded investment funded by public monies.

The RCA is concerned that the lack of sufficient funding will result in significant stranded investment. As explained in the ARC comments, many of

²⁷ RCA comments, page 22: The RCA has concerns . . . because the size of the fund has been established without consideration of the level of service the funding will be able to provide. GCI comments, page 27: Enforcing the RAF budget through a "first-come, first-served" approach or pro rata support reductions would not meet the statutory requirement of sufficiency.

²⁸ 47 U.S.C. § 254(e) under the heading of Universal Service Support states "Any such support should be explicit and sufficient to achieve the purposes of this section."

Alaska's carriers may be placed at financial risk by the FCC's change of course.²⁹

Carriers incurred debt, some of which was borrowed from public sources such as the Rural Utilities Service, to invest in networks to provide advanced services consistent with the FCC's universal service policies. Carriers that are unable to repay this debt will not only default on payments owed to taxpayers, they also will not be in a position to invest in networks that achieve the new FCC vision. Some may not even be able to continue to provide voice service, which puts carrier of last resort (COLR) obligations and vital voice services at risk.

It is interesting to compare the language of the CAF Order with language in a prior FCC Order from 2001.³⁰ The CAF Order states that voice is just one service to be provided over a broadband network, while the FCC's 2001 order states that "Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services." Somehow in the shift from a voice network capable of broadband-type services to a broadband network capable of providing voice services, the former voice networks are losing support. The RCA does not believe this is good public policy. Changing the rules midgame will increase the perceived riskiness of the industry and make funding from investors and lenders alike difficult to obtain. This increases costs, which ultimately must be borne by ratepayers.

FCC CAF policies create financial uncertainty and public safety risks.

²⁹ ARC comments page 4.

³⁰ *Fourteenth Report and Order, Twenty-second Order on Reconsideration, and Further Notice of Proposed Rulemaking* in CC Docket NO. 96-45, and *Report and Order* in CC Docket No. 00-256, Adopted May 10, 2001. Paragraphs 200 and 201 state in part:

Contrary to the arguments of some commenters, use of support to invest in infrastructure capable of providing access to advanced services does not violate section 254(e), which mandates that support be used "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."⁴⁷¹ The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services.

Even carriers who are not faced with the inability to repay existing debt can expect to be negatively impacted. The capital needed for the extensive investment Remote Alaska needs may be difficult to obtain because of the uncertainty generated by the Order. The Rural Utilities Service recently notified potential borrowers of a change in requirements to obtain funding.³¹ Detailed 5-year pro-forma financials with line-by-line explanations for how projections were developed must be provided and projected network access revenue estimates must be prepared for and signed by a “Cost Consultant.” It is not surprising that lenders are cautious about lending to carriers that depend on support in order to provide service given the FCC’s radical changes in rules.

The TCC expresses concern that Remote Alaska not go backwards as a result of these reforms. While pleased with the intent of the Order, the TCC states “. . . recklessly implemented provisions of USF and ICC reforms could put high cost support and subsequent telecommunications services such as basic telephone service in our remote villages at risk.”³² The TCC explains that telecommunications services are critical components of community infrastructure in rural Alaska because many villages are not connected to the highway system and may not have regular air carrier services. Telecommunications services, even basic telephone service, is the only continuously available and accessible service that connects isolated rural villages in real-time to services that can sometimes be the difference between life and death.³³ Likewise, the RCA does not believe it is reasonable to remove support for voice service, which is vital to the health and safety of remote communities, in order to support broadband service in other parts of the country.

³¹ February 3, 2012 Open Letter from the Assistant Administrator at <http://www.rurdev.usda.gov/supportdocuments/LetterReInfrastructureLoanApps>.

³² TCC comments, page 3.

³³ TCC comments, page 4.

In the event the FCC moves forward without committing to provide sufficient support for Alaska, the RCA believes that neither modeled results nor reverse auctions can appropriately target funding in Alaska. Furthermore, we believe that our knowledge of the challenges of providing services in Alaska is essential to efficient targeting of much needed a funding.

Use of a consumer subsidy to distribute Remote Areas Funding requires more study.

The Microcom comments include valid concerns regarding the concept of using a consumer subsidy to support broadband through the Remote Areas Fund. The comments cite the complexity of such an approach because individual applicants for the support must be considered one at a time. The RCA believes the real complexity, however, is the purpose and objective of the subsidy. As Microcom explains, broadband is different from dial tone and “In satellite broadband, every key stroke and mouse click has a price.”³⁴ If the FCC wants to consider using a consumer subsidy, the RCA recommends the FCC conduct studies to determine how much capacity should be provided to consumers by understanding what the recipient should be enabled to do and then what the cost would be to provide this ability.

V. Mobility Fund

Due to unique circumstances, Alaska providers will not be competitive in reverse auctions.

³⁴ *Comments of Microcom, filed in FCC WC Docket 10-90 on January 5, 2012, (Microcom comments), pages 3 – 4.*

The FCC proposes to use reverse auctions to distribute both Phase I and Phase II of the Mobility Fund. GCI stated that because of Alaska's "unique circumstances" it is very unlikely that Remote Alaska will receive any support through this mechanism, even from the Tribal lands portion. The FCC has proposed various means of leveling the playing field such as providing bidding credits and prioritizing locations away from the National Highway System. Because there is insufficient detail regarding the design of the reverse auction mechanisms, the RCA cannot accurately assess the playing field and so cannot determine whether these adjustments would result in a fair portion of funds targeted to Alaska.

The RCA has additional concerns about reverse auctions. The National Association of State Utility Consumer Advocates (NASUCA) points out several flaws, including the fact that auctions may result in areas receiving support that would have been built out without it.³⁵ In other words, it isn't an effective tool for getting support to locations that really need it. A community with a small population that is costly to serve needs high cost support badly, but is less likely to get that support when a reverse auction mechanism is used.

The RCA appreciates the FCC's willingness to set aside funding for Alaska.³⁶ The question is how much funding does Alaska need? The RCA reiterates its earlier comments: even if the FCC apportioned the entire \$100 million of the Tribal lands monies to Alaska, the funding would not be sufficient to provide truly comparable service. The RCA agrees with GCI³⁷ and asks the FCC to

³⁵ *Comments of the National Association of State Utility Consumer Advocates, Maine Office of the Public Advocate, the New Jersey Division of Rate Counsel, and the Utility Reform Network*, January 18, 2012, page 67.

³⁶ FNPRM paragraph 1172.

³⁷ GCI comments, pages 10 – 12 discuss this with regard to mobile broadband but the RCA believes the cost of wireline broadband facilities to provide comparable service in Remote Alaska is equally undetermined.

conduct necessary analyses to determine the true cost to provide reasonably comparable service in Alaska before establishing a budget.

VI. Determining areas that are unserved and, therefore, eligible for support requires a different approach in Alaska.

Three Alaskan entities commented regarding the FCC's plan to use national databases for purposes of determining whether an area is served or unserved. The ARC comments describe the problems of the size of Alaska's census blocks and how nonsensical results could arise – for example, how, if a census block exceeds a carrier's network boundaries, carriers may be required to buy and sell parts of their networks so that all of the support for the infrastructure in a census block will flow to just one carrier. This is making reality fit the model rather than the other way around.³⁸ ACS commented that use of the centroid method will lead to 'absurd' results because of the small population centers in large expanses of unpopulated areas of Alaska.³⁹ ACS also commented on how American Roamer data is flawed for Alaska. Microcom⁴⁰ stated that the National Broadband Map is "useless" with regard to Alaska data. These comments raise caution flags that must be heeded to avoid future risk. The FCC simply cannot assume that data gathering methods used in the contiguous states will result in data that is as comprehensive, reliable and relevant in Alaska as it is in the rest of the country.

³⁸ ARC comments, page 13.

³⁹ ACS comments, page 16.

⁴⁰ Microcom comments, page 2: Paragraph 1230. I have found the National Broadband Map useless for determining broadband availability in remote areas of Alaska as the data is mostly missing.

The RCA once again urges the opportunity for extensive vetting of Alaska information by interested parties before critical funding decisions are made.

VII. COLR concerns and preemption of state authority.

At the beginning of these comments the RCA included an excerpt from the ACS comments regarding state COLR obligations. Specifically, ACS recommends that, if a carrier does not receive sufficient support for an area, it should be relieved of its COLR obligations for that area. ACS also asserts that “Providers should also be allowed to appeal the denial of such relief directly to the FCC.” The RCA shares ACS’s concern that universal service could morph into something that may be less than universal due to the reduced funding levels proposed for Alaska. The RCA does not agree, however, that the FCC should have the right to assert any authority over COLR matters within the state. Such authority would preempt the rights of the state of Alaska and the RCA strongly opposes such a suggestion.

VIII. Additional concerns.

The proposed quantile regression analyses exclude critical Alaska information and the results are unpredictable.

Copper Valley Telephone Cooperative, Inc. (CVTC) commented⁴¹ on the FCC’s proposed use of “quantile regression analyses to generate a set of [cost recovery] limits for each rate-of-return cost company study area.”⁴² In the FNPRM, the FCC describes how costs above the 90th percentile for “similarly situated companies” would not be allowed in the high cost support calculation and

⁴¹ *FNPRM Comments of Copper Valley Telephone Cooperative, Inc. USF Issues Section E* (CVTC comments) filed in FCC WC Docket 10-90 on January 18, 2012.

⁴² FNPRM paragraph 1079.

requests comment on the proposed methodology. CVTC states that it is illogical to assert that it has been placed in a “similarly-situated peer group” when such factors as topography, geology and climatic conditions, which obviously contribute considerably to its costs, have been ignored.⁴³ The RCA agrees with CVTC and also agrees with the ARC comments that a waiver requirement is not an appropriate solution. The RCA supports the ARC recommendation that the FCC instead establish a benchmark that appropriately considers Alaskan conditions.⁴⁴

Beyond the Alaska-specific issues with the FCC’s quantile regression analysis, many concerns have been voiced by commenters regarding the lack of effective validation of the model. NASUCA recommends delaying implementation until January 1, 2013 instead of the current July 1, 2012, to allow for additional analysis and scrutiny of the model.⁴⁵ Based on the number and nature of defects with the analysis that NASUCA’s comments reveal, the RCA believes a delay of longer than six months may be appropriate.⁴⁶ Other significant concerns have been identified in *The Monitor* including the exclusion of a frost index in the model and that “Significant errors occurred *in more than 90% of the study areas* where the data are currently available.”⁴⁷ Because predictability of support levels is necessary for the needed investment in broadband facilities in rural areas, the lack of predictability from the model must be remedied: “the most threatening aspect of

⁴³ CVTC comments, page 3.

⁴⁴ ARC comments, pages 18 – 19.

⁴⁵ NASUCA comments, pages 43 – 57.

⁴⁶ For example, NASUCA’s comparison of census block data used in the model to data for Maine revealed “substantial differences in the total census block count for three of the four carriers examined. . . ” Id, page 48.

⁴⁷ The Monitor is a publication of JSI Capital Advisors, which is an investment bank that specializes in communications, digital media and information technology industries: <http://www.jsicapitaladvisors.com/monitors/2012/2/7/the-fccs-quantile-regression-analysis-is-fatally-flawed-peri.html>

the regression analysis for RLECs is the randomness that permeates the entire analysis which makes it impossible for RLECs to know how the analysis will impact not only past but future investments.”⁴⁸

The 11.25 percent rate of return should not be modified at this time.

The ARC argues that the rate of return should be kept at 11.25 percent for carriers serving Tribal areas.⁴⁹ The RCA is not opposed to the idea and further believes it is preferable to retain 11.25 percent as the rate of return everywhere for the time being. The uncertainty regarding the impact of the reforms adopted and additional changes under consideration will make investing in the infrastructure needed difficult to justify even with a rate of return of 11.25 percent. As discussed in *The Monitor*, the FCC should give the impact of the current reforms a chance to be realized before considering this change if the FCC wants carriers to deploy broadband in rural areas.⁵⁰

IX. Conclusion

The RCA, again, appreciates this chance to provide feedback to the FCC regarding USF reforms. Reforming such a large, complex and important mechanism as the USF is a Herculean undertaking and there are always going to be winners and losers when major changes are made. The changes as adopted,

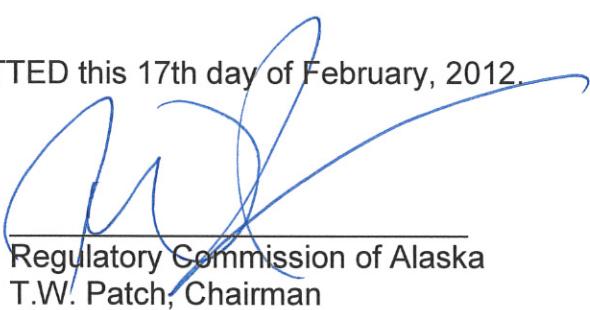
⁴⁸ Id.

⁴⁹ ARC comments, pages 10 – 11.

⁵⁰ <http://www.jsicapitaladvisors.com/monitors/2012/1/25/saving-rate-of-return-is-saving-rlec-financial-integrity.html> The article also supports the RCA’s contention in its January 18 comments that Verizon and AT&T are not appropriate companies on which to base rural carriers’ rates of return: **Unsuitable Surrogates: Since when do Verizon and AT&T have Similar Risks as RLECs?**

however, require the state of Alaska and rural consumers to give up more than their fair share and will result in less, rather than more, infrastructure deployment and improved technology. The RCA requests that the FCC fully recognize the needs of our state by first assessing the cost of construction for and access to middle mile transport and then providing a level of support sufficient to achieve a mutually agreed upon level of broadband service throughout Alaska.

RESPECTFULLY SUBMITTED this 17th day of February, 2012,



Regulatory Commission of Alaska
T.W. Patch, Chairman

Exhibit A **Waiver Request Required Information**

The minimum information required is identified in paragraph 542 of the order and includes the items listed below and paragraph 543 includes the statement that “Failure to provide the listed information shall be grounds for dismissal without prejudice” and invites input from state commissions.

- Density characteristics of the study area or other relevant geographic area including total square miles, subscribers per square mile, road miles, subscribers per road mile, mountains, bodies of water, lack of roads, remoteness, challenges and costs associated with transporting fuel, lack of scalability per community, satellite and backhaul availability, extreme weather conditions, challenging topography, short construction season or any other characteristics that contribute to the area’s high costs.
- Information regarding existence or lack of alternative providers of voice and whether those alternative providers offer broadband.
- (For incumbent carriers) How unused or spare equipment or facilities is accounted for by providing the Part 32 account and Part 36 separations category this equipment is assigned to.
- Specific details on the make-up of corporate operations expenses such as corporate salaries, the number of employees, the nature of any overhead expenses allocated from affiliated or parent companies, or other expenses.
- Information regarding all end user rate plans, both the standard residential rate and plans that include local calling, long distance, Internet, texting, and/or video capabilities.
- (For mobile providers) A map or maps showing (1) the area it is licensed to serve; (2) the area in which it actually provides service; (3) the area in which it is designated as a CETC; (4) the area in which it is the sole provider of mobile service; (5) location of each cell site. For the first four of these areas, the provider must also submit the number of road-miles, population, and square miles. Maps shall include roads, political boundaries, and major topographical features. Any areas, places, or natural features discussed in the provider’s waiver petition shall be shown on the map.
- (For mobile providers) Evidence demonstrating that it is the only provider of mobile service in a significant portion of any study area for which it seeks a waiver. A mobile provider may satisfy this evidentiary requirement by submitting industry-recognized carrier service availability data, such as American Roamer data, for all wireless providers licensed by the FCC to serve the area in question. If a mobile provider claims to be the sole

provider in an area where an industry-recognized carrier service availability data indicates the presence of other service, then it must support its claim with the results of drive tests throughout the area in question. In the parts of Alaska or other areas where drive testing is not feasible, a mobile provider may offer a statistically significant number of tests in the vicinity of locations covered. Moreover, equipment to conduct the testing can be transported by off-road vehicles, such as snow-mobiles or other vehicles appropriate to local conditions. Testing must examine a statistically meaningful number of call attempts (originations) and be conducted in a manner consistent with industry best practices. Waiver petitioners that submit test results must fully describe the testing methodology, including but not limited to the test's geographic scope, sampling method, and test set-up (equipment models, configuration, etc.). Test results must be submitted for the waiver petitioner's own network and for all carriers that the industry-recognized carrier service availability data shows to be serving the area in which the petitioner claims to be the only provider of mobile service.

- (For mobile providers). Revenue and expense data for each cell site for the three most recent fiscal years. Revenues shall be broken out by source: end user revenues, roaming revenues, other revenues derived from facilities supported by USF, all other revenues. Expenses shall be categorized: expenses that are directly attributable to a specific cell site, network expenses allocated among all sites, overhead expenses allocated among sites. Submissions must include descriptions the manner in which shared or common costs and corporate overheads are allocated to specific cell sites. To the extent that a mobile provider makes arguments in its waiver petition based on the profitability of specific cell sites, petitioner must explain why its cost allocation methodology is reasonable.
- (For mobile providers) Projected revenues and expenses, on cell-site basis, for 5 years, with and without the waiver it seeks. In developing revenue and expense projections, petitioner should assume that it is required to serve those areas in which it is the sole provider for the entire five years and that it is required to fulfill all of its obligations as an ETC through December 2013.
- A list of services other than voice telephone services provided over the universal service supported plant, e.g., video or Internet, and the percentage of the study area's telephone subscribers that take these additional services.
- (For incumbent carriers) Procedures for allocating shared or common costs between incumbent LEC regulated operations, competitive operations, and other unregulated or unsupported operations.

- Audited financial statements and notes to the financial statements, if available, and otherwise unaudited financial statements for the most recent three fiscal years. Specifically, the cash flow statement, income statement and balance sheets. Such statements shall include information regarding costs and revenues associated with unregulated operations, e.g., video or Internet.
- Information regarding outstanding loans, including lender, loan terms, and any current discussions regarding restructuring of such loans.
- Identification of the specific facilities that will be taken out of service, such as specific cell towers for a mobile provider, absent grant of the requested waiver.
- For Tribal lands and insular areas, any additional information about the operating conditions, economic conditions, or other reasons warranting relief based on the unique characteristics of those communities.