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	)	WC Docket No. 07-135
Local Exchange Carriers	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	
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 GENERAL COMMUNICATION, INC. WITH RESPECT TO SECTIONS XVII.A-K OF THE FURTHER NOTICE OF PROPOSED RULEMAKING

Tina Pidgeon
Megan Delany
Chris Nierman
GENERAL COMMUNICATION, INC.
1350 I Street, N.W., Suite 1260
Washington, D.C. 20005
(202) 457-8815

John T. Nakahata
Brita D. Strandberg
Renee R. Wentzel
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

February 17, 2012

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INTRODUCTION AND SUMMARY

General Communication, Inc. ("GCI") files these reply comments regarding issues raised in Sections XVII.A-K of the Federal Communication Commission's ("FCC" or "Commission") *Report and Order and Further Notice of Proposed Rulemaking* ("*Order*" or "*FNPRM*") seeking to reform and modernize the universal service and intercarrier compensation systems.[1] GCI

[1] *Connect America Fund; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Lifeline and Link-Up; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; A National Broadband Plan for Our Future; Universal Service Reform – Mobility Fund,* Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 07-

agrees with all Alaska commenters—as well as other commenters in the Lower 48—that the unique challenges of serving Alaska must be taken into account across the full range of mechanisms that the Commission has or is creating pursuant to the *Order*.[2] Alaska faces enormous universal service challenges: there are certainly many parts of Alaska that would not have voice service today and that will not have mobile or broadband service in the future without universal service support. As the Regulatory Commission of Alaska makes clear, satellite is not the answer for rural Alaska.[3] Setting aside issues of latency, 80 percent or more of Alaska lies outside the satellite footprint for broadband services.[4]

With respect to Mobility Fund Phase II, the bulk of commenters agree with GCI and recommend waiting to finalize Mobility Fund Phase II rules until after the Commission has experience with Mobility Fund Phase I. GCI also agrees with other commenters that a model-based approach to Mobility Fund Phase II support could be preferable to reverse auctions—especially to ensure that support is distributed to the areas that are most difficult to serve, rather than to those most likely to be served without any federal support.

The comments, whether from Alaska or the rest of the United States, also overwhelmingly recognize that middle-mile costs must be considered in determining the amount

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135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-208, FCC 11-161 (rel. Nov. 18, 2011) ("*Order*" or "*FNPRM*").

[2] *See generally* Comments of the Regulatory Commission of Alaska, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("RCA Comments"); Comments of the Alaska Rural Coalition, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("ARC Comments"); Comments of Alaska Communications Systems Group, Inc., WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("ACS Comments"). *See also* Comments of the American Cable Association at 2 n.2, WC Docket 10-90 et al. (filed Jan. 18, 2012) (stating that Alaska may need a "different path to reform"). *See also* Comments of the National Cable & Telecommunications Association at 3 n.4, WC Docket 10-90 et al. (filed Jan. 18, 2012) (asking the Commission to ensure that adequate funding is given to Alaska).

[3] RCA Comments at 6-7.

[4] *Id.* at 6.

of universal service support necessary to meet the Commission's performance obligations. In Alaska, as all Alaska commenters make clear, the lack of terrestrial middle-mile facilities inhibits broadband service, and the costs of bridging the middle mile to support service at the FCC's mandated speeds will be significant. The comments also support GCI's view that middle-mile costs should be treated as expenses, rather than as elements to be placed into a rate-of-return carrier's ratebase, as the RLEC Associations' proposal would do. In Alaska, for example, none of the rate-of-return carrier commenters suggest that they would be entering the interexchange market to build their own middle mile, rather than buying service from an interexchange carrier.

The Commission should decline the implied request of the Alaska Rural Coalition to engage in rate regulation of interstate, interexchange middle-mile facilities. Such price regulation would not facilitate the construction or augmentation of terrestrial middle-mile facilities where they do not exist today. By contrast, the Alaska Rural Coalition's request that performance requirements be scaled to fit the support provided is reasonable, and the Commission should generally ensure that performance requirements match the forward-looking costs of and support for providing mandated service levels. If the Commission is not going to provide support that permits a provider to purchase the middle-mile capacity necessary to meet particular performance requirements, it would be arbitrary and capricious to continue to insist on those requirements.

GCI also agrees that the Commission should not be subsidizing inefficiency and lack of economies of scale and scope, which is what the proposed twenty-five percent small business reverse bidding credit in the Mobility Fund would do. Universal service support, by all expectations, is going to be a scarce resource. It makes little sense, in that context, to pay subscale providers more to provide the same services that a more efficient provider could do for less.

Finally, with respect to CAF Phase II support, entities receiving only sunsetting support should be considered as "unsubsidized competitors." Competing broadband providers, such as Competitive Eligible Telecommunications Carriers ("CETCs"), may be receiving legacy support at the time the auction is held, but will no longer be receiving support at the end of the CETC phase-down period. It makes little sense to allow this quirk of timing to render lower cost areas eligible for continued USF support when these areas most likely will continue to have broadband services meeting the FCC's performance requirements even after legacy CETC support is fully phased out. The Commission should also reject the Alaska Rural Coalition's nonsensical claim that the provision of cable services over a cable network that also provides voice and broadband is a source of subsidy.

I. THE COMMISSION SHOULD NOT FINALIZE THE MOBILITY FUND PHASE II RULES AND STRUCTURE UNTIL IT HAS EVALUATED THE IMPLEMENTATION AND SUCCESS OF MOBILITY FUND PHASE I.

GCI continues to urge the Commission not to rush to judgment and create a framework and rules for a Mobility Fund Phase II without assessing how Mobility Fund Phase I works in practice, or what results are achieved in terms of actual deployment in unserved areas.[5] U.S. Cellular aptly sums up the issue:

[5] *See* Comments of General Communication, Inc. at 5, WC Docket 10-90 et al. (filed Jan. 18, 2012) ("GCI Comments").

> "Reserving judgment regarding whether to use a forward-looking economic cost model or a single-winner reverse auction for Phase II until the Commission has gathered information regarding the performance of the auction mechanism in Phase I, and has provided interested parties with an opportunity to review and comment on this information, would enable the Commission to make an informed, data-driven decision regarding the Phase II disbursement mechanism."[6]

Indeed, as C Spire states, "[t]here is no rational basis for the Commission's rushing to final action regarding selection of a Phase II disbursement mechanism, before it gives itself, and interested parties, an opportunity to evaluate the results of the Phase I reverse auction."[7] GCI also agrees with AT&T that using reverse auctions to award universal service support is untested in this country, and that all interested parties will likely learn much once the first auction is complete.[8] As CTIA concludes, "[t]he lessons learned from Phase I will be critical to determining the appropriate structure and operation of Phase II."[9]

II. THE COMMISSION SHOULD CONSIDER A MODEL-BASED SUPPORT MECHANISM AS AN ALTERNATIVE TO REVERSE AUCTIONS FOR MOBILITY FUND PHASE II.

GCI also concurs with U.S. Cellular, C Spire, and the Rural Cellular Association that a model-based approach to Mobility Fund Phase II support could be preferable to reverse auctions. Under these proposals, a forward-looking cost model would determine the amount of Mobility Fund Phase II support in an area.[10] C Spire suggests use of a coupon system to allow consumers

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[6] Comments of United States Cellular Corporation at iii, WC Docket No. 10-90 et al. (filed Jan. 18, 2012) ("US Cellular Comments); *see also* U.S. Cellular Comments at 3-4, 6-8.

[7] Comments of C Spire Wireless at v, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("C Spire Comments"); *see also* C Spire Comments at 4; *see generally* C Spire Comments at 1-14.

[8] *See* Comments of AT&T at 33-34, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("AT&T Comments").

[9] Comments of CTIA – The Wireless Association at 2, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("CTIA Comments"); *see also* CTIA Comments at 3-6.

[10] C Spire Comments at 14; US Cellular Comments at 5; Comments of RCA – The Competitive Carriers Association at 10-13, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012).

to choose their carrier.[11] GCI agrees with ACS that any such model would have to take account of Alaska's unique circumstances,[12] but believes it is possible to do so.

A cost model would accomplish twin objectives. First, it would gauge whether the support to be provided in aggregate will come close to being sufficient to deliver services at the performance levels required. If there were a substantial mismatch between the model's projected costs and the performance requirements, then, as discussed below, either the budget or the performance requirements must be adjusted.

Second, a cost model would address the criticism that NASUCA et al. levels against reverse auctions—that auctions serve less to drive efficiency than to rank order areas from the lowest cost per unit to expand to the highest cost per unit to serve.[13] Such an ordering has an inherent bias against the areas that are most expensive to serve, making it unlikely that these areas would receive support, and thus increases the likelihood that such areas will not be served in the foreseeable future, or ever. A model would allow the Commission to review more systematically how it wishes to allocate support between areas that are lower cost per unit and those areas that have a higher cost per unit.

Preserving the potential for consumer choice to shift support among potentially competing providers is also essential for creating a mechanism that incentivizes continued innovation and improvement in service quality. A model-based support mechanism with a coupon approach would continue to harness the market to drive innovation and service improvements into rural areas, rather than simply relying on command and control mandates.

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[11] C Spire Comments at 14-15.

[12] ACS Comments at 16-17.

[13] 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 at 76-77, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012).

The FCC's stated preference for supporting only a single provider does not negate the basic economics outlined by former FCC Chief Economist Prof. David Sappington eight years ago (and Nobel Laureate Friedrich Hayek long before that): a single provider system cannot drive innovation and service quality improvements to the same degree as a system that, at a minimum, preserves the potential for competitive entry.[14]

III. SUPPORT MUST BE ADEQUATE TO COVER MIDDLE-MILE EXPENSES NECESSARY TO MEET THE SPECIFIED BROADBAND PERFORMANCE REQUIREMENTS, BUT THE MIDDLE MILE SHOULD NOT BECOME PART OF THE ROR CARRIERS' RATEBASE.

A. A Range of Commenters Agree that Broadband Performance Requirements Must be Aligned with the Available Resources, Including to Pay for Middle-Mile Costs.

As the Commission recognized in the *FNPRM* and as a range of commenters point out, the Commission must align its broadband performance requirements with the resources available.[15] A key component of the costs incurred to meet broadband performance requirements is middle-mile transport. The Nebraska Rural Independent Companies correctly explained:

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[14] *See generally* David E.M. Sappington, *Harnessing Competitive Forces To Foster Economical Universal Service*, filed in CC Docket No. 96-45 attached to the letter of Tina M. Pidgeon, Vice President, Federal Regulatory Affairs, GCI, to Marlene H. Dortch, Secretary, FCC (filed Dec. 19, 2003).

[15] *FNPRM*, ¶ 1089 ("We aim to ensure that obligations and funding are appropriately matched, while avoiding consumer disruption in access to communications services"); *see also, e.g.*, Comments of the United States Telecom Association at 4-6, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012); Initial Comments of National Exchange Carrier Association, Inc. et al. at 37, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("NECA et al. Comments"); Comments of Frontier Communications Corporation at 8-9, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012); Comments of the Nebraska Rural Independent Companies at 78, WC Docket Nos. 10-90 et al. (filed Jan. 18, 2012) ("Nebraska Rural Independent Companies Comments").

> "As a practical matter broadband access must correspond to middle mile transport capabilities. A consumer with 4:1 broadband access will have the capability to utilize applications and the requisite transport capacity that a consumer with slower Internet access will not possess. Inadequate middle mile transport degrades overall broadband functionality. Sufficient and robust middle mile transport facilities are necessary to support an actual (not advertised) performance standard and are an integral component of the access to the Internet that the Commission has outlined."[16]

In Alaska, this is particularly the case, given the fact that, as ACS points out, not only does Internet traffic need to be transported from its point of origin to Alaska's fiber networks, but from there to the closest Internet peering point in Seattle, Washington.[17]

As the Regulatory Commission of Alaska observes, "[t]he extent of the funding made available will impact the quality of services deployed."[18] In its comments, GCI noted that the required speed levels, minimum tolerable round trip latency and amount of included usage will all affect the level of middle-mile costs that must be incurred to meet the performance requirements the Commission sets.[19] The Nebraska Rural Independent Companies state, "[i]t is only rational that [an ETC's] middle mile transport costs should be included in the CAF in order to ensure the availability of the very scalable access to the public Internet that the Commission's actions envision."[20] But as the Regulatory Commission of Alaska also warns, "funding levels should not be reduced to a level where service quality and capacity performance decline and put the health and safety of communities at risk. Performance obligations may not need to be modified significantly if adequate funding is available."[21]

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16 Nebraska Rural Independent Companies Comments at 81-82.

17 ACS Comments at 3.

18 RCA Comments at 16.

19 GCI Comments at 12-13.

20 Nebraska Rural Independent Companies Comments at 82.

21 RCA Comments at 16.

Setting performance standards that cannot be met with the funding made available is arbitrary and capricious, because "[i]mpossible requirements imposed by an agency are perforce unreasonable."[22] But even if the Commission could enact impossible requirements as a condition of the receipt of USF support, such a measure would be self-defeating. As the Regulatory Commission of Alaska observes, "providers are likely to take a subsidy only if it is sufficient to meet performance requirements."[23]

Thus, any Commission promise to deliver broadband to Alaska, whether fixed or mobile, will be illusory unless accompanied by the support necessary to meet all costs of providing broadband service at the required performance levels. This means that either support will include the middle-mile costs necessary to meet the Commission's performance requirements (768 Mbps download and 256 Kbps upload, in the case of Mobility Fund Phase II) or the performance requirements themselves will have to be modified—opening up the possibility of putting Alaska permanently on the wrong side of the Twenty First Century broadband divide.

B. The Commission Should Reject the Rural Associations' Proposal to Include Middle Mile in the Ratebase.

The RLEC Associations Proposed Rural CAF would include middle-mile investment in the regulated ratebase, on which the RLEC would then earn the prescribed rate of return which would be recovered from USF to the extent that the total costs of providing broadband service, including middle mile, exceeded a specified benchmark.[24] This middle-mile investment is not

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[22] *Alliance for Cannabis Therapeutics v. DEA*, 930 F.2d 936, 940 (D.C. Cir. 1991). *See also Nuvio Corp. v. FCC*, 473 F.3d 302, 303 (D.C. Cir. 2006) ("the bar against arbitrary and capricious decision-making" makes necessary inquiries into the "technical and economic feasibility" of a proposed requirement).

[23] RCA Comments at 16.

[24] Comments of the National Exchange Carrier Association, Inc. et al. at 29-31, 33, WC Docket Nos. 10-90, 07-135, 05-337, CC Docket No. 01-92, GN Docket No. 09-51 (filed Apr. 18, 2011) ("RLEC Associations Proposal"). As reprinted in Appendix G to the *FNPRM*, the

limited to facilities located within the Independent Local Exchange Carrier's ("ILEC's") service area as "broadband transmission facilities and services beyond the Broadband Access Service Connection Point as well as facilities and services necessary to connect to the Internet backbone."[25] The RLEC Associations never explained in their proposal, and again fail to explain in their comments, any rationale for including middle-mile investment in interexchange facilities in the ratebase to be recovered from the CAF. This proposal is all the more perplexing because, under 47 C.F.R. § 64.1903, an incumbent independent LEC that provides in-region, interstate, interexchange services must do so using a separate affiliate, with separate books of account.

This is particularly an issue in Alaska, where middle-mile capacity generally is not a local exchange carrier service, but an interexchange carrier service. Even within a single ILEC study area, transport between communities is an interexchange service, as the traffic today transits satellite connections between villages.[26] When an Alaska ILEC offers intervillage

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formula for the Rural Broadband Benchmark is unintelligible. For example, in calculating the variable component for study areas having a Broadband Take Rate between 25 percent and 50 percent, it is unclear what is being added or multiplied, because, for example, the result of a subtraction is not a "product" which usually refers to the result of a multiplication, and the description is also ambiguous as to whether the sum of $6.50 plus the difference between the Broadband Take Rate and 25 percent is meant to be multiplied or divided by the following operations, or the following operations are performed on the difference and then added to $6.50. *See FNPRM*, Appendix G, Proposed § 54.1102(c)(2)(ii)("the variable component is equal to $6.50 plus the product of the Broadband Take Rate minus 25 percent, divided by 25 percent, and multiplied by $6.50 multiplied by the following annual transition factor.").

[25] *FNPRM*, Appendix G, Proposed Appendix to Part 36 – Glossary.

[26] The Regulatory Commission of Alaska grants local exchange carriers authorizations to provide telephone service within specific exchange area boundaries, which are smaller than the ILEC's study area. *See Formal Complaint Filed by GCI Communication Corp. d/b/a/ General Communication, Inc. and GCI Against Nushagak Electric and Telephone Cooperative, Inc.*, U-10-5(4), 2011 WL 345249 (Jan. 26, 2011). Transmission between these exchanges is interexchange service, requiring an interexchange authorization from the

middle-mile transport today for interstate services (such as Internet traffic), it must do so consistent with the FCC's requirements that in-region interexchange services be offered through a separate affiliate.[27]

As GCI stated in its comments, it makes much more sense to treat the interexchange middle-mile costs as expenses.[28] To the extent an affiliate provides middle-mile services to an ILEC, those services can be valued in accordance with 47 C.F.R. § 64.1903 and the affiliate transaction rules. To do otherwise would create an artificial incentive for the rate-of-return LEC to construct new interexchange middle-mile facilities—which it could put in its ratebase and on which it could earn the prescribed rate of return—rather than purchasing services that would be expenses, which the ILEC would not be able to mark-up in calculating universal service payments.

The Commission asks how it could impose reasonable limits on middle-mile costs under the RLEC Associations' proposal.[29] To maintain some discipline, the Commission should not treat the middle-mile expenses differently for different types of carriers. Middle-mile costs are not likely to vary by the type of provider (*e.g.*, fixed price cap ILEC, fixed Rate of Return ("RoR") LEC, or mobile CETC) within a community, but rather by the distance and difficulty of connecting the community itself back to the fiber backbone. The middle-mile costs of reaching Bethel, for example, are likely to be similar for a megabit of traffic regardless of whether that megabit terminates over an RoR ILEC's last mile, over a fixed Wireless Internet Service Provider ("WISP"), or over a mobile broadband network. The same would be true for any other

Regulatory Commission of Alaska, except when the RCA has specifically authorized Extended Area Service. *Id.*

[27] *See* 47 C.F.R. § 64.1903.

[28] GCI Comments at 31.

[29] *FNPRM*, ¶ 1035.

Alaska community that is not on an existing fiber network. As GCI stated in its comments,[30] middle-mile costs will vary with the level of speed, included usage and latency specified by the Commission as the minimum to be delivered by the supported service—not by whether the Internet Service Provider is a price cap ILEC, an RoR LEC, or a fixed or mobile wireless provider. The Commission should apply similar per megabit allowances for middle-mile expenses across all of its CAF and Mobility Funds, tailored to the circumstances of the areas being served. The best way to do this may be to use a model that takes into account the specific local networks, demographics and topologies.

C. The Commission Does Not Need to Create Price Regulation of Interstate, Interexchange Middle-Mile Services.

Some commenters seem to imply that the Commission should create a price regulation system for interstate, interexchange middle-mile services.[31] The Commission should decline such an invitation. Rates for interstate, interexchange telecommunications services already must be just and reasonable and be provided without unreasonable discrimination. These terrestrial transmission facilities—especially in Alaska—are extremely costly to construct, operate, maintain and, when necessary, upgrade. Moreover, the lack of demand outside of a very few urban centers means that there is very little demand over which to recover those high costs. Price regulation in this context would be self-defeating, further reducing the incentive to construct these facilities in the first place, and making it even more difficult to secure financing for such critical projects.

Consistent with its overall view that performance obligations must be reconciled with the level of support provided, GCI agrees with the Alaska Rural Coalition and others that if the

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30 GCI Comments at 12-13.

31 *See* ARC Comments at 7.

Commission is not providing sufficient support to cover the market-based costs of middle mile, then the Commission needs to reexamine the required performance level. This does not, however, necessarily mean that performance requirements should be immediately relaxed to satellite-based levels; rather the performance obligation should be scaled down to a level reflecting the level of support, which may be faster than satellite-based speeds but slower than the Commission's generally applicable performance requirements.

IV. A SET-ASIDE WILL LIKELY BE NECESSARY TO DELIVER ANY MOBILITY FUND PHASE II SUPPORT TO ALASKA.

All Alaska parties commenting agree that support is unlikely to flow to Alaska, notwithstanding its demonstrable universal service needs, in the absence of a set-aside. The Regulatory Commission of Alaska projects that "it could spend the entire $100 million budget for Mobility II funding of Tribal lands and still not have services that are comparable to the rest of the country."[32] The Alaska Rural Coalition similarly supports a set-aside for Alaska.[33] GCI continues to work to provide the Commission with an estimate of the costs of delivering 4G services to all census blocks with a road, but that lack 3G service today, and will provide that estimate to the Commission as soon as it is available. However, GCI continues to believe that the costs of mobile voice and broadband service in Alaska will be so high relative to the rest of the country, that without a set-aside, Alaska would receive little, if any, Mobility Fund Phase II support.

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32 RCA Comments at 18.

33 ARC Comments at 27.

V. THE COMMISSION SHOULD NOT SUBSIDIZE THE INEFFICIENCY OF SUBSCALE PROVIDERS IN ANY OF ITS MECHANISMS, ESPECIALLY MOBILITY FUND PHASE II.

As GCI stated in its initial comments, the Commission should "promote efficient at-scale deployments, rather than isolated, subscale 'island' networks."[34] Ubiquitous modern wireless service in rural areas in particular can best be provided through a network that takes advantage of economies of scale from urban population centers. The Commission should *not* subsidize inefficiency and lack of economies of scale and scope, which is what the proposed twenty-five percent small business credit in the Mobility Fund would do. GCI thus agrees with AT&T that the Commission should "reject out of hand its suggestion to establish a bidding credit for small businesses."[35] The implementation of this proposal could result in less coverage achieved, at greater cost, over numerous "island" networks.[36]

Universal service support, by all expectations, will be a scarce resource, and "a [bidding] credit would cause the Commission to spend more than necessary to achieve ubiquitous broadband deployment."[37] It makes little sense to pay subscale providers more to provide the same services that a more efficient provider could do for less. Instead, to meet the assigned high cost budget constraints while maximizing the service opportunities to consumers living in rural, high cost areas, Mobility Fund Phase II recipients must be able to leverage economies of scale.

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[34] GCI Comments at 16.

[35] AT&T Comments at 34.

[36] *See also generally* GCI Comments at 16-17.

[37] AT&T Comments at 34.

VI. WITH RESPECT TO CAF PHASE II SUPPORT, ENTITIES RECEIVING ONLY SUNSETTING SUPPORT SHOULD BE CONSIDERED "UNSUBSIDIZED COMPETITORS."

As the Commission finalizes its rules regarding CAF Phase II, and as it considers whether to develop further rules for any CAF for Rate-of-Return carriers, it should more directly address the situation in which a competing broadband provider may currently be receiving legacy CETC support—but for whom that legacy support is expected to sunset within five years—and consider such a provider as an "unsubsidized competitor." The Commission's rules define an "unsubsidized competitor" as "a facilities-based provider of residential terrestrial fixed voice and broadband service that does not receive high-cost support."[38] This definition, however, does not clearly address the situation in which a competing broadband provider may be receiving legacy support at the time the auction is held, but will no longer be receiving support at the end of the phase-down period.

GCI's wireline CETC operations provide a good example of this. GCI provides wireline CETC service in Anchorage, Fairbanks, and Juneau, each of which are served by ACS, a price cap ILEC. All of GCI's wireline CETCs receive some level of support today. In Anchorage, Fairbanks, and Juneau the CETC support that GCI's wireline affiliate receives will begin a five step phase-out starting July 1, 2012, which will be completed by July 1, 2016, assuming that the Mobility Fund Phase II is implemented on schedule. If the Commission is deciding which areas are eligible for CAF Phase II support prior to July 1, 2016, it may find that ACS has no "unsubsidized competitors" even though GCI wireline has shrinking support that will be wholly eliminated within ACS's five year CAF Phase II support (assuming ACS makes the statewide election).

[38] 47 C.F.R. § 54.5.

It seems wholly contrary to the purpose of the unsubsidized competitor test if ACS can be considered to face no “unsubsidized competitor” in urban Alaska in 2014 simply because the CETC support phase-out has not yet run its course. These areas most likely will continue to have broadband services meeting the FCC’s performance requirements even after legacy CETC support is fully phased out in 2016. It makes little sense to allow a quirk of timing related to the phase out of CETC legacy support to render these areas eligible for USF support in 2014.

The Commission should also turn back the Alaska Rural Coalition’s request to treat GCI’s cable services operations as a source of subsidy. That argument is nonsense. While there is certainly some common cost sharing between cable and non-cable operations, common cost sharing is not a cross-subsidy. If that were the case, then the Alaska Rural Coalition’s members would have been violating Section 254(k) when they used high cost universal service support to build out video-capable DSL plant. The “unsubsidized competitor” test should remain limited to the receipt of high cost universal service support on a sustained, rather than sunsetting, basis to provide terrestrial fixed broadband services.

CONCLUSION

GCI again notes its appreciation for the Commission’s stated “commitment to Tribal lands, including Alaska,”[39] Yet, GCI reiterates its concern that the Commission’s proposed reforms to mobile services support in particular may not advance the deployment of broadband and advanced voice services to Remote Alaska, particularly to areas that are unserved by any wireless services today. To advance broadband deployment in Remote Alaska, the Commission will have to recognize and account for the uniqueness of Alaska in developing and implementing all aspects of its new Connect America Fund, whether for fixed or mobile services.

[39] *See* GCI Comments at 2; *Order*, ¶ 481.

In parallel, the Commission should leverage and learn from the lessons of the Mobility Fund Phase I before developing and finalizing rules for the Mobility Fund Phase II. As it develops Mobility Fund Phase II rules, the Commission should also consider a model-based approach to ensure that support is distributed to those areas that need it the most. The Commission must also consider the importance of adequately supporting the middle-mile facilities necessary to meet broadband performance mandates. Finally, the Commission should make the most efficient use of scarce funds and not explicitly subsidize sub-scale providers through reverse bidding credits, or provide support in areas where a competitor is providing broadband services during and after the sunsetting support period.

Respectfully submitted,

/s/

John T. Nakahata
Brita D. Strandberg
Renee R. Wentzel
WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, N.W.
Washington, D.C. 20036
(202) 730-1300

Counsel for General Communication, Inc.

Tina Pidgeon
Megan Delany
Chris Nierman
GENERAL COMMUNICATION, INC.
1350 I Street, N.W., Suite 1260
Washington, D.C. 20005
(202) 457-8815

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