

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
)	
ACS of Anchorage, Inc., ACS of Alaska, Inc.,)	WCB/Pricing File No. 10-02
and ACS of Fairbanks, Inc.)	
)	
Petition for Phase II Pricing Flexibility)	
Pursuant to Sections 69.709 and 69.711 of the)	
Commission's Rules)	
)	

REPLY COMMENTS

ACS of Anchorage, Inc. (“ACSA”), ACS of Alaska, Inc. (“ACSAK”), and ACS of Fairbanks, Inc. (“ACSF”) (collectively, the “ACS LECs”) submit these reply comments in connection with the above-captioned Petition, in which the ACS LECs have requested Phase II pricing flexibility in their respective service areas. Only a single entity, General Communications Inc. (“GCI”), filed comments with respect to the Petition. In its brief comments, GCI concedes that it has “no basis to question the factual assertions underpinning the Petition,” and makes no claim that granting the Petition would be contrary to the public interest.¹ Therefore, the Petition should be granted.

GCI asks the Commission to delay granting the Petition—and effectively to deny the ACS LECs the relief to which they are entitled under the Commission’s pricing flexibility rules—while the Commission reevaluates those rules in connection with the *Special Access NPRM*.² GCI has a strong incentive to try to maintain its competitive advantage over the ACS

¹ Comments of General Communications Inc. at 1 (Mar. 3, 2010).

² *Id.*

LECs by denying them the ability to price their services in response to market forces, while denying Alaska consumers the benefits of lower prices and increased choice. Long-established Commission policy would be contravened by such an unjustified delay.

In adopting its pricing flexibility rules, the Commission recognized that as markets become competitive, constraints on a carriers' pricing become counterproductive.³ Thus, the Commission took steps to expedite the removal of these constraints where, as here, relevant triggers are satisfied.⁴ In particular, the Commission promulgated Section 1.774(f)(1) of the Commission's rules, which provides that "[a] petition for pricing flexibility pertaining to special access and dedicated transport services shall be deemed granted unless [denied] no later than 90 days after the close of the pleading cycle."⁵

GCI stands to profit from continuing to subject the ACS LECs to unnecessary pricing constraints, and therefore would subject the Petition to an unprecedented processing delay. Even if such procedures *could* be imposed outside of a notice-and-comment rulemaking of general applicability,⁶ similar petitions were processed expeditiously in light of the public interest considerations described above. The fact that the Commission is engaged in a proceeding that *may* someday result in a change in the pricing flexibility rules is no reason to stay the effectiveness of the Commission's existing rules (particularly where the underlying proceeding has been ongoing for years); if it were, much of the Commission's regulatory apparatus would be paralyzed at any given point in time.

³ *Access Charge Reform*, Fifth Report and Order, 14 FCC Rcd 14221, at ¶ 19 (1999).

⁴ *See id.* at ¶ 171 (limiting the pleading cycle with respect to pricing flexibility petitions to a total of 25 days—the minimum amount of time “sufficient to enable interested parties to examine the incumbent LEC's petition and to draft a response[.]”).

⁵ 47 C.F.R. § 1.774(f)(1).

⁶ *See* 5 U.S.C. § 553.

For these reasons, the ACS LECs urge the Commission to reject GCI's request and grant the Petition on an expedited basis.

Respectfully submitted,

ACS OF ANCHORAGE, INC., ACS OF ALASKA,
INC., AND ACS OF FAIRBANKS, INC.

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March 15, 2010

CERTIFICATE OF SERVICE

I, Jarrett S. Taubman, do hereby certify that, on this 15th day of March, 2010, I served a true and correct copy of the foregoing Reply Comments via U.S. mail, postage prepaid, on the following:

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/s/ Jarrett S. Taubman
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