

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

In the Matter of	)	
	)	
Special Access for Price Cap Local Exchange Carriers:	)	WC Docket No. 05-25
	)	
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	)	RM-10593
	)	
Comprehensive Market Data Collection for Interstate Special Access Services, FCC 12-153; Information Collection(s) Being Reviewed By the Federal Communications Commission, Comment Requested	)	78 Fed.Reg. 9911

**COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS**

Alaska Communications Systems (“ACS”)<sup>1</sup> hereby submits these comments in response to the Commission’s request published in the Federal Register pursuant to the Paperwork Reduction Act in the above-referenced docket and rulemaking.<sup>2</sup> ACS addresses in these comments the Commission’s questions about the accuracy of its burden estimate and the practical utility of the proposed collection.<sup>3</sup>

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

<sup>2</sup> *Comprehensive Market Data Collection for Interstate Special Access Services, FCC 12-153; Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested*, 78 Fed. Reg. 9911 (Feb. 12, 2013) (“*Special Access PRA Request*”).

<sup>3</sup> The Commission seeks comment on “whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including use of automated collection techniques or other forms of information technology; and ways to further reduce the information

The Commission proposes to conduct an extensive mandatory data collection as part of its “comprehensive market analysis” of special access services that will inform its adoption of new rules on pricing flexibility and pricing deregulation for special access services.<sup>4</sup> While ACS previously has been granted some pricing flexibility on special access services, it has “found that the pricing flexibility it obtained for specific municipalities was of very little value to the company in the marketplace, where customers’ service needs typically do not follow the boundaries established by the MSA-based regulatory scheme. ACS’s chief competitors for special access services are not so constrained. ... [They] have the unfettered right to offer term discounts or individual case basis (‘ICB’) contracts, and [are] not subject to any prescribed rate structure.”<sup>5</sup> Despite the highly competitive nature of special access service offerings in Alaska, ACS still would be subjected to the burdens of the proposed data collection, which would require ACS to submit detailed information about its special access facilities, billing, and revenue, terms and conditions, and would require the company’s affiliated mobile wireless service provider to submit information about its special access expenditures and terms and conditions.

Before implementing any data collection that will be used to rewrite regulations and potentially alter existing forbearance relief from regulation, ACS believes the gating question should be whether there have been any complaints about competitive access to special access

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burden for small business concerns with fewer than 25 employees.” *Special Access PRA Request* at 9911.

<sup>4</sup> See *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, Report and Order, 27 FCC Rcd 10557 (2012) (“*Special Access Suspension Order*”).

<sup>5</sup> *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Comments of Alaska Communications Systems, at 3 (filed Feb. 11, 2013) (“ACS Comments”).

services in a particular market.<sup>6</sup> For special access services in Alaska markets where ACS has been granted pricing flexibility, the answer to that question would be a resounding “no,” thereby making any data collection from ACS’s regulated ILECs unnecessary and burdensome.<sup>7</sup> ACS should not be subjected to the proposed data collection because there is no basis to alter regulatory forbearance in the areas where ACS has been granted pricing flexibility.<sup>8</sup> Moreover, the burden that would be imposed on ACS is far greater than the Commission’s estimate of 134 hours for response, calling into question the benefit gained for the cost incurred.

#### **I. THE PROPOSED DATA COLLECTION IMPOSES UNACCEPTABLE BURDENS ON ACS**

The requirements of the data collection are particularly burdensome to ACS stemming from the fact that much of the 2010 and 2012 data requested from ILECs is simply not available in ACS’s provisioning systems,<sup>9</sup> and the data that is available from ACS’s billing systems<sup>10</sup> in

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<sup>6</sup> “The Commission has reaffirmed the competitive nature of the special access market in many carrier-specific rulings during ... [the past two decades]. Despite the availability of the complaint process under Section 208 of the Communications Act, ACS is aware of no findings against special access carriers in complaint proceedings alleging abuse of market power where pricing flexibility was granted. Yet, the Commission has been considering revoking or curtailing pricing flexibility for more than seven years.” ACS Comments at 4 (footnotes omitted).

<sup>7</sup> “While the Commission should conduct a multi-faceted analysis of the special access market to determine what criteria would be useful triggers for pricing flexibility and deregulation, the Commission would do well to approach this analysis with the goal of granting relief *except* where the balance of evidence clearly suggests market power. If an ILEC asserts, based on objective criteria, that it is subject to actual or potential competition, and neither its customers nor its competitors present compelling evidence to the contrary, the ILEC should be granted relief.” ACS Comments at 5.

<sup>8</sup> If anything, data collection about the special access market in Alaska should focus on where the Commission can grant greater de-regulation and pricing flexibility to ILECs where competition has already taken hold, using data collected from ACS’s competitors as justification.

<sup>9</sup> The type of requested data that is found in ACS’s provisioning systems is only available real time. In other words, the data would be derived from a snapshot in time, not an interactive system that can be parsed for the data requested.

<sup>10</sup> Billing data is retrieved from ACS’s accounting systems and Carrier Access Billing (“CABs”) system.

most cases would need to be matched up to data from provisioning systems before ACS could report that data as responsive.<sup>11</sup> An example of the need for matching data between the provisioning and billing systems is demonstrated by the billing information requested in the ILEC request number 4, where the Commission asks for the corresponding facility information from request number 3. In order to tie the information together, ACS must review data from two or more different systems. This match-up would be a purely manual, labor-intensive process.

Providing the responsive data from ACS's provisioning systems would be complicated by system and software upgrades performed by ACS in 2010 and 2012, as well as the nature of the data in the provisioning systems. To retrieve responsive data from the provisioning systems, ACS would need to restore backed-up data. Restoring data from 2010 would require ACS to re-install an older version of the software, which is several versions out-of-date.<sup>12</sup> Undoubtedly, collection and production of data from ACS's provisioning and billing systems would require extensive manual attention. This would require ACS to use operations employees as well as outside consultants.<sup>13</sup> Only after older software is re-installed and data is restored could reports

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<sup>11</sup> For example, location IDs, circuit IDs, and CLLI codes captured in ACS's billing systems would need to be cross-referenced with location and connection information produced from ACS's provisioning systems.

<sup>12</sup> ACS cannot simply restore backed up data to run reports without re-installing older versions of the provisioning system software. Older data fields are not compatible with newer software. Importantly, re-installing older versions of software just to run reports with backed up data may cause problems for ACS's current operating systems because the older software programs may not be compatible with current operating systems.

<sup>13</sup> ACS would need to divert various employees from their normal functions, crossing multiple departments such as Information Technology ("IT"), Operations, Finance, End User Billing, and Carrier Access Billing, in order to produce the requested data. IT consultants would be needed to assist with restoring systems and validating that the restore was successful, both of which would require a significant amount of effort. Once the data is restored, consultants would also be required to assist with matching data between systems, as well as to assist with collecting information that can only be procured manually.

be generated and reviewed manually to produce some of the responsive data.<sup>14</sup> In short, it is not a simple exercise to produce data from ACS's systems for 2010 or 2012.

Some of the data requested from 2010 and 2012 cannot be produced programmatically from ACS's data systems at all, even with re-installed software and restored data.<sup>15</sup> Data such as facilities, geocoding, and location types are not programmed into ACS's systems and would require a manual review of each service in order to collect and produce. The manual process could require ACS to obtain archive paper copies of the original work orders or make field visits to the central office and customer locations. Notably, ACS does not keep records of the geocode for each location where special access services are deployed,<sup>16</sup> nor does the company maintain records on the location type.<sup>17</sup> Also, ACS does not keep records on whether a special access connection is fiber or copper;<sup>18</sup> the bandwidth of the unbundled network element ("UNE"); how unbundled loops are used;<sup>19</sup> charges that are non-recurring;<sup>20</sup> or adjustments that are made

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<sup>14</sup> With all the processes that would be required to produce responsive data, ACS cannot guarantee the accuracy of the data and expects that glitches may cause the data to be unreliable.

<sup>15</sup> For example, as detailed *infra*, the data collection request numbers 3, 4, and 5 for ILECs require information for which ACS does not keep records, specifically information on the geocode for the location, the location type, whether the connection is fiber, non-recurring charges, adjustments to billing, bandwidth for unbundled network elements, and unbundled loops.

<sup>16</sup> Geocoding a location would require ACS to hire an outside consultant to perform the identification, followed by ACS testing the findings.

<sup>17</sup> Every location would need to be researched manually to provide location type.

<sup>18</sup> ACS's provisioning systems are not programmed to capture the type of connection, that is, fiber or copper. ACS would need to research each connection manually to make this determination.

<sup>19</sup> In most cases ACS does not know the true use of a UNE because the UNE does not connect to any ACS equipment. Competitors can be using UNEs as switched or special access circuits. Importantly the circuit equipment used by the competitor determines the facility's capability.

outside the billing cycle.<sup>21</sup> While, in some cases, diverted ACS employees could perform the manual searches (to the detriment and cost of normal operations), in other cases ACS would need to hire an outside consultant to perform the search and incur an outlay of significant financial resources when every dollar is already closely monitored to preserve the viability of the company. The amount of time that would be required, in addition to lost manpower, to conduct manual searches to retrieve this type of data is wholly inconsistent with the apparent assumptions underlying the amount of time the Commission estimates to complete the data collection.

Beyond the burdens associated with producing the requested data – both for re-creating systems and data that could produce historical data and for the manual searches that would be required where systems do not already capture data – there are other concerns associated with the data requests. For example, confidentiality of the data to be provided is a significant concern. If not protected, the information requested would provide ACS's competitors with a road map to every special access customer, detailing what they purchase and at what price.<sup>22</sup>

The burdens of producing the data requested are therefore far greater than the 134 hours that the Commission estimates. The processes described here for the efforts involved in producing the data, to the extent it even exists, highlight the enormity of the production effort the

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<sup>20</sup> ACS bills non-recurring charges (“NRCs”) through its billing systems, but does not track NRCs in its provisioning systems. The NRC from the billing system would need to be manually matched to the specific provisioned circuit from the provisioning systems.

<sup>21</sup> Out of cycle billing adjustments are not tracked in ACS's provisioning systems. Rather, most adjustments arise from differences in the billing system as compared to the company's provisioning systems. For example, a circuit may have been disconnected in the provisioning system, but the billing system did not stop billing, resulting in the need for a billing adjustment. This type of correction would not be reflected in ACS's provisioning data. Rather ACS manually corrects order errors directly in the billing system and the billing system automatically makes the correction.

<sup>22</sup> Notably some language in customer contracts may prohibit ACS from providing detailed information about the access services it provided.

request would entail, and explain why ACS finds it difficult even to assess the amount of time that would be required to comply with the data collection. The data collection might take more than ten times the number of hours estimated by the Commission. At a minimum, ACS can confirm that it currently lacks the resources to determine the precise amount of time that the data collection would require, and ACS does not have ready access to the data requested.<sup>23</sup>

This lack of ready access to the data requested is an important factor in assessing the reasonableness of the burden hours imposed by the data collection. As USTelecom noted in Paperwork Reduction Act comments submitted in 2008 regarding the Commission's emergency backup power requirements, Office of Management and Budget ("OMB") guidelines for information collection state: "[a]gencies must first identify all the steps a respondent takes in order to comply with the survey request, and then estimate the time for each step to arrive at a total burden per respondent." The OMB Guidelines also state that with respect to assessing burden hours, agency surveys should include the time it takes to 'locate the source data and aggregate them.'<sup>24</sup> The OMB ultimately disapproved the Commission's information collection

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<sup>23</sup> Alaska Communications Systems' mobile wireless service provider, ACS Wireless, LLC ("ACS Wireless"), also purchases special access services and would also be subject to the data collection. It also has the same problems with ready access to the requested data. ACS Wireless does not keep records at the level that the requested data could be produced through its systems. Rather, ACS Wireless would need to review every bill and create data from invoices. This process would be further complicated if the invoices do not have the level of detail required, necessitating that ACS Wireless request data from the provider. The data collection would also be a labor intensive and time-consuming process for ACS Wireless.

<sup>24</sup> Letter to Nicholas A. Fraser, Office of Management and Budget, from Glenn Reynolds, Vice President, Policy, USTelecom, 77 FR 52354: Information Collection Regarding Emergency Backup Power for Communications Assets as set forth in the Commission's Rules (47 CFR 12.2) at 4 (filed Oct. 9, 2008) ("USTelecom Backup Power Letter"). USTelecom observed at that time, "the Commission's first estimate of 70 hours provided LECs with just 10 seconds per wireline asset to comply with the reporting requirements. Yet after reviewing the extensive record in this proceeding, the Commission's revised estimate of 116.64 hours allows for a mere 16.79 seconds per wireline asset." USTelecom Backup Power Letter at 2 (emphasis in original).

on emergency backup power for many reasons, including failure to demonstrate a reasonable effort made to reduce the burden placed on respondents “due to a lack of sufficient clarity on how respondents are to satisfy compliance with this collection.”<sup>25</sup> The same issues are present in the Commission’s current data collection on special access services. The steps involved in gathering the requested data, at least for ACS, would require ACS to expend many multiples of the hours estimated. The burden is not justified in light of the competitive nature of special access services in Alaska where pricing flexibility has already been granted. Any data collection imposed on ACS must account for the unique circumstances that would be required for it to gather the requested data.

## **II. COLLECTING DATA FROM ACS IS A WASTEFUL USE OF CRITICAL RESOURCES**

The practical utility of a data collection such as the one proposed by the Commission should be gauged by the circumstances of each area. The Commission only should have concerns about competition for special access services when there are actual complaints from customers about lack of competitive choices or pricing. ACS is not aware of any Commission findings involving a complaint about abuse of market power by special access carriers in Alaska.<sup>26</sup> The market naturally will reveal problem areas where it may be appropriate to gather information and assess the benefit of regulation, but the market has not revealed any such problems in Alaska where competition has already taken hold. While special access competition has taken hold in most of Alaska, there are some locations where ACS has not been able to enter

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<sup>25</sup> See [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=200802-3060-019](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=200802-3060-019).

<sup>26</sup> See ACS Comments at 4.



the market as a competitor due to the prohibitive costs and the lack of available infrastructure. It is not always the ILEC that can foreclose competitive entry into markets.<sup>27</sup>

Where customers are satisfied, there is no need for regulation and no justification to collect data. This is the case where ACS has obtained pricing flexibility. The Commission does not need data from ACS for this area of Alaska. However, where customers are not satisfied, then data collection and regulation may be necessary. Based on the competitive nature of the market where ACS has pricing flexibility as well as the lack of competition in areas where ACS and other competitors face barriers, it is simply not necessary to require ACS to submit to the proposed data collection. Imposing this data collection on ACS would be a waste of the critical resources that ACS needs to provide services and maintain its network.

### **III. CONCLUSION**

The proposed data collection would impose a burden far beyond the Commission's expectations. In order to produce the requested data, ACS would need to re-install multiple older versions of software that were used in 2010 and 2012, as well as restore backed up data. Producing data from these systems would require further manual attention. ACS also would need to conduct time and labor intensive manual searches of its network for a large amount of data that was not captured by its electronic systems. The manual nature of data collection would require ACS to divert employees from their normal duties, and employ consultants at significant cost to the company. Quite simply, the requested data cannot be collected easily or cheaply, and

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<sup>27</sup> For example, in those areas served by the TERRA-SW facilities that are controlled by GCI and constructed with federal Broadband Technology Opportunities Program grant funds, GCI's unjust, unreasonable, and unreasonably discriminatory pricing has foreclosed competitive entry through bottleneck facilities, justifying increased regulatory vigilance by the Commission so that ACS and other would-be competitors are provided with rights of access at just and reasonable rates, terms, and conditions. *See* ACS Comments at 12-13. Any data provided by ACS to demonstrate this discriminatory treatment would be highly confidential.

certainly not within the timeframe estimated by the Commission. The burdens imposed on ACS by this data collection are intensified by the fact the Commission does not need data from ACS to show what is already evident in areas where ACS has been granted pricing flexibility: competition is strong and thriving. The Commission's focus for any data collection in Alaska should be consistent with its ultimate goal of deregulation, investigating only in areas where competition is struggling, and seeking data only from entities that constrain competition.

Respectfully submitted,

/s/  
Karen Brinkmann  
Robin Tuttle  
KAREN BRINKMANN PLLC  
2300 N Street, NW  
Suite 700  
Washington, D.C. 20037  
(202) 365-0325  
[KB@KarenBrinkmann.com](mailto:KB@KarenBrinkmann.com)

*Counsel for ACS*

Leonard A. Steinberg  
General Counsel and Corporate Secretary  
Richard R. Cameron  
Assistant Vice President and Senior Counsel  
ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.  
600 Telephone Avenue  
Anchorage, Alaska 99503

April 15, 2013