

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

In the Matter of )
Direct Communications Cedar Valley, LLC )
Petition for Waiver of Sections 36.611 and ) CC Docket No. 96-45
36.612 of the Commission's Rules )
Allband Communications Cooperative )
Waiver of Sections 36.611 and 36.612 and Associated )
Provisions of the Commission's Rules )

ORDER

Adopted: January 12, 2010

Released: January 12, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we deny requests from Direct Communications Cedar Valley, LLC (Direct) and Allband Communications Cooperative (Allband) for waivers of sections 36.611 and 36.612 of the Commission's rules. Direct requests a waiver of sections 36.611 and 36.612 to allow it to receive universal service high-cost loop support payments as of February 1, 2006, the date that Direct closed its purchase of the Eagle Mountain City municipal telephone system (EMC). Allband requests a waiver of sections 36.611 and 36.612 to allow it to receive support retroactively to the month that its first customer is provided service.

II. BACKGROUND

2. Universal service high-cost loop support is calculated using data provided by incumbent local exchange carriers (LECs) pursuant to the Commission's cost accounting and data collection requirements. In accordance with section 36.611 of the Commission's rules, on July 31 of each year, incumbent LECs are required to file the preceding year's loop cost data with the National Exchange Carrier Association (NECA). NECA compiles and analyzes these data to determine the average cost per

1 See 47 C.F.R. §§ 36.611 and 36.612; Direct Communications Cedar Valley, LLC, Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules, Approval of Related Actions, and an Expedited Decision (filed Aug. 29, 2006) (Direct Petition); Allband Communications Cooperative, Waiver of Sections 36.611 and 36.612 and Associated Provisions of the Commission's Rules (filed Sept. 5, 2006) (Allband Petition).

2 See Direct Petition at 2.

3 See Allband Petition at 2.

4 See 47 C.F.R. Parts 32, 36, and 54.

5 See 47 C.F.R. § 36.611.

loop for each incumbent LEC study area.<sup>6</sup> Each rural carrier's high-cost loop support for the following year is based on the relationship between the carrier's study area average cost per loop and the nationwide average cost per loop, as limited by the indexed caps.<sup>7</sup> Because the cost data are not submitted by carriers until seven months after the end of a calendar year (i.e., July 31), and NECA requires time to analyze the data and make the necessary nationwide calculations of support by determining the nationwide average loop cost adjusted to reflect the indexed caps, carriers generally do not receive high-cost loop support based on these data until the beginning of the second calendar year after the costs are incurred.<sup>8</sup> As a result, newly established carriers may wait up to two years before receiving high-cost loop support payments.<sup>9</sup> The operation of sections 36.611 and 36.612 of the Commission's rules, however, only affects the timing of payments and such payments, when received, compensate newly-established carriers for costs incurred retroactively to the commencement of their operations.

3. Under section 36.612 of the rules, carriers have the option of submitting to NECA loop cost and loop count data on a quarterly basis and receiving support earlier than the beginning of the second calendar year after incurring the costs.<sup>10</sup> For example, if a carrier files loop cost data for the 12-month period ending June 30 by December 30, NECA will calculate the carrier's cost per loop for that 12-month period and the Universal Service Administrative Company (USAC)<sup>11</sup> will begin to pay the resulting support in the second quarter of the next calendar year. Thus, in this example, section 36.612 permits incumbent LECs to recover their loop costs incurred from January 1 to June 30 through high-cost loop support during the next calendar year rather than waiting until the second calendar year pursuant to section 36.611.

4. As a general matter, requests for waiver of sections 36.611 and 36.612 of the Commission's rules have been granted only in limited circumstances, primarily to accelerate the provision of high-cost loop support to new carriers initiating service in predominantly unserved areas.<sup>12</sup> In these

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<sup>6</sup> 47 C.F.R. § 36.601(c).

<sup>7</sup> See 47 C.F.R. § 36.622.

<sup>8</sup> See 47 C.F.R. § 36.611.

<sup>9</sup> For example, carriers filed 2007 loop cost data with NECA on July 31, 2008. Carriers began receiving high-cost loop support payments based on this 2007 data in January 2009.

<sup>10</sup> Incumbent LECs can file loop cost data on March 30, September 30, and December 30 of each year. 47 C.F.R. § 36.612.

<sup>11</sup> USAC, as the administrator of the federal universal service support mechanisms, is responsible for disbursing support for all four universal service support mechanisms (i.e., the high-cost, low-income, rural health care, and schools and libraries mechanisms). See 47 C.F.R. § 54.702(b).

<sup>12</sup> See *Sandwich Isles Communications, Inc., Petition for Waiver of Section 36.611 of the Commission's Rules and Request for Clarification*, AAD 97-82, Order, 13 FCC Rcd 2407 (Acct. Aud. Div. 1998) (subsequent history omitted); *South Park Telephone Company, Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules*, AAD 97-41, Order, 13 FCC Rcd 198 (Acct. Aud. Div. 1997) (*South Park Order*); *Border to Border Communications, Inc., Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules*, AAD 94-61, Memorandum Opinion and Order, 10 FCC Rcd 5055 (Com. Car. Bur. 1995) (*Border to Border Order*); see also *Mescalero Apache Telecom, Inc., GTE Southwest Incorporated, and Valor Telecommunications of New Mexico, LLC, Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules*; *Mescalero Apache Telecom, Inc., Waiver of Sections 61.41(c)(2), 69.3(e)(11), 36.611, and 36.612 of the Commission's Rules*, CC Docket No. 96-45, Order, 16 FCC Rcd 3813 (Acct. Pol. Div. 2001) (*Mescalero Order*) (granting waiver of sections 36.611 and 36.612 of the Commission's rules to carrier expanding service to unserved residences on a Native American reservation); *American Samoa Government and the America Samoa Telecommunications Authority, Petition for Waivers and Declaratory Rulings to Enable America Samoa to Participate in the Universal Service High Cost Support Program and the National Exchange Carrier Association*

(continued...)

limited instances, newly-established carriers lacking historical cost data have been allowed to receive support based on estimated costs that are subject to true-up.<sup>13</sup> Where requests for waiver of sections 36.611 and 36.612 have been granted, it was determined that delaying the timing of high-cost loop support under the circumstances presented could have the unintended effect of discouraging new carriers from extending service in unserved remote areas, thereby frustrating the statutory goal of promoting the provision of services at reasonable rates.<sup>14</sup> Furthermore, waiving sections 36.611 and 36.612 of the Commission's rules to provide immediate high-cost loop support will double the amount of high-cost loop support paid to the new incumbent LEC for loop costs incurred during the first two years of operation. Under the established operation of sections 36.611 and 36.612 of the Commission's rules, a new incumbent LEC would begin to receive support payments covering its first two years of operation at the start of its third year of operation. The acceleration and disbursement of support payments during the first two years of operation, pursuant to a waiver, would allow an incumbent LEC to receive support for those two years in addition to the support received at the start of the third year of operation that covers those same years under the established operation of the high-cost loop rules. As a result, the new incumbent LEC would receive high-cost loop support for the same costs twice.

### III. PETITIONS

#### A. Direct Petition for Waiver

5. On November 2, 2004, Direct and Qwest Corporation (Qwest) filed a joint petition for a waiver of the study area boundary freeze and other related waivers.<sup>15</sup> On November 25, 2005, the Wireline Competition Bureau (Bureau) granted the requested waivers.<sup>16</sup> The study area waiver permitted Qwest to alter the boundaries of its Utah study area by removing the territory where Eagle Mountain City (EMC) operated a municipal telephone system within Qwest's Utah study area and permitted Direct to

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*Pools and Tariffs*, CC Docket No. 96-45, AAD/USB File No. 98-41, Order, 14 FCC Rcd 9974 (Acct. Pol. Div. 1999) (granting waiver of section 36.611 to carrier serving an insular area).

<sup>13</sup> See *Mescalero Order*, 16 FCC Rcd at 3823-25, paras. 26-29; *South Park Order*, 13 FCC Rcd at 201-03, paras. 8-13.

<sup>14</sup> See *Mescalero Order*, 16 FCC Rcd at 3823-25, paras. 26-29; *South Park Order*, 13 FCC Rcd at 201-03, paras. 8-13; *Border to Border Order*, 10 FCC Rcd at 5057, para. 14; see also 47 U.S.C. § 254(b).

<sup>15</sup> See Direct Communications Cedar Valley, LLC and Qwest Corporation, Joint Petition for Waiver of the Definition of "Study Area" of the Appendix-Glossary of Part 36 of the Commission's Rules, CC Docket No. 96-45 (filed November 2, 2004) (Direct Study Area Petition); Direct Communications Rockland, Inc., and Direct Communications Cedar Valley, LLC, Petition for Waiver of Sections 69.2(hh) and 69.605(c) of the Commission's Rules, Approval of Related Actions, and an Expedited Decision, CC Docket No. 96-45 (filed Oct. 27, 2004) (Part 69 Petition). On February 7, 2005, Direct filed a supplement to its Part 69 Petition clarifying that it seeks average schedule status for purposes of receiving both universal service support and access pool settlements. See Direct Communications Rockland, Inc., and Direct Communications Cedar Valley, LLC, Petition for Waiver of Sections 69.2(hh) and 69.605(c) of the Commission's Rules, Approval of Related Actions, and an Expedited Decision, Supplemental Filing, CC Docket No. 96-45 (filed Feb. 7, 2005) (Supplemental Part 69 Petition). Direct was formed solely to purchase the municipal telephone system owned by Eagle Mountain City, which served approximately 2,223 subscribers. See Direct Study Area Petition at 3.

<sup>16</sup> See *Direct Communications Cedar Valley, LLC and Qwest Corporation, Joint Petition for Waiver of the Definition of "Study Area" of the Appendix-Glossary of Part 36 of the Commission's Rules, Petition for Waiver of Sections 69.2(hh) and 69.605(c) of the Commission's Rules*, CC Docket No. 96-45, Order, 20 FCC Rcd 19180 (Wireline Comp. Bur. 2005) (*Direct Study Area Order*).

create a new study area in the state of Utah that consisted of EMC's service territory.<sup>17</sup> The related waivers allowed Direct to become a member of the NECA tariffs and pools and to receive interstate access settlements and universal service support pursuant to NECA's average schedule formulas. In addition, the Bureau granted, on its own motion, several other waivers to permit Direct to receive, to the extent that it was eligible, federal universal service support on the date that it would otherwise be entitled to receive such support.<sup>18</sup>

6. In the instant petition, Direct requests waiver of sections 36.611 and 36.612 to allow it to receive high-cost loop support effective February 1, 2006, the date it closed the transaction with EMC.<sup>19</sup> Direct claims that without such immediate high-cost loop support it cannot continue to operate and upgrade the service to the higher level of regulated utility-grade service ordered by the Utah Public Service Commission (Utah Commission) as a condition of certifying Direct.<sup>20</sup> Direct further states that, as a new company serving an area that has not been previously served by any certificated carrier, it does not have accurate historical cost information reflecting the costs that Direct has incurred since acquiring the EMC system on February 1, 2006, or which it will incur to provide adequate and reliable service in Eagle Mountain City.<sup>21</sup> Direct also states that the Commission recognized Direct's inability to provide accurate historical cost data and waived section 69.605(c) of the Commission's rules to allow Direct to participate in the NECA tariffs and pools, and to receive universal service support as an average schedule company.<sup>22</sup>

7. Direct states that between the time its study area petition was filed in 2004 and the time the instant petition was filed in August 2006, approximately 400 new subscribers have been added to Direct's study area; subscriber growth is averaging 33 new subscribers per month; the network has been significantly upgraded to provide enhanced, advanced service capabilities; and all subscribers now have digital subscriber loop (DSL) access.<sup>23</sup> Direct claims that strict application of sections 36.611 and 36.612 of the Commission's rules would preclude it from receiving high-cost loop support until 2008 and that Direct would be compelled to look to its rural customers for cost-recovery of amounts that otherwise should be recovered through universal service support in a manner consistent with Commission policy

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<sup>17</sup> *Direct Study Area Order*, 20 FCC Rcd at 19180-81, para. 1. A study area is a geographic segment of an incumbent LEC's telephone operations. Generally, a study area corresponds to an incumbent LEC's entire service territory within a state. The Commission froze all study area boundaries effective November 15, 1984. *See MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Decision and Order, 50 Fed. Reg. 939 (1985) (*Part 67 Order*); *see also* 47 C.F.R. Part 36, App. The Commission took this action to prevent the establishment of high-cost exchanges within existing service territories as separate study areas merely to maximize universal service high-cost support. A carrier must therefore apply to the Commission for a waiver of the study area boundary freeze if it wishes to sell or purchase additional exchanges. *See Part 67 Order*, 50 Fed. Reg. at 939, para. 1.

<sup>18</sup> *See Direct Study Area Order*, 20 FCC Rcd at 19180, para. 1.

<sup>19</sup> *See* Direct Petition at 2.

<sup>20</sup> *See id.* at 7.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* Direct incorrectly states that "[a]verage schedule treatment, as approved by [the] Commission, is available to facilitate and simplify the process for getting full USF support where historical cost data is either unavailable or unreliable." Direct Petition at 7. Direct misunderstands the average schedule process, which was implemented to allow small incumbent LECs to avoid the administrative and financial burdens of performing interstate cost studies. *See Direct Study Area Order*, 20 FCC Rcd at 19186, para. 18. All incumbent LECs, whether cost-based companies or average schedule companies, are required to maintain accurate and reliable accounts in accordance with Part 32 of the Commission's rules. *See* 47 C.F.R. Part 32.

<sup>23</sup> *See* Direct Petition at 8.

and practice.<sup>24</sup> Finally, Direct states that the relief sought has been granted by the Commission to other carriers in similar circumstances.<sup>25</sup>

#### B. Allband Petition for Waiver

8. On April 7, 2005, Allband filed a petition requesting a waiver of sections 69.2(hh) and 69.601 of the Commission's rules to allow it to join NECA and to participate in NECA tariffs and pools.<sup>26</sup> Allband also requested a waiver of certification and data filing deadlines contained in Part 54 of the Commission's rules that would prevent it from receiving universal service high-cost loop, local switching, and interstate common line support "on the date on which it would otherwise be entitled to receive such support."<sup>27</sup> On August 11, 2005, the Bureau granted the requested waivers and granted, on its own motion, other waivers to permit Allband to receive, to the extent that it is eligible, federal universal service support on the date that it would otherwise be entitled to receive such support.<sup>28</sup>

9. In the instant petition, filed in September 2006, Allband requests waiver of sections 36.611 and 36.612 to allow it to receive high-cost loop support beginning with the month its first customer is provided service.<sup>29</sup> Allband states that as a new company serving a previously unserved area it has no historical, actual cost information for 2004 or 2005 and will not have actual cost information until the first customer is provided service in either the third or fourth quarter of 2006. Allband further argues that strict application of sections 36.611 and 36.612 of the Commission's rules would preclude Allband from receiving full high-cost loop support until either the third quarter of 2008 or the first quarter of 2009 depending on whether the first customer is provided service in the third or fourth quarter of 2006.<sup>30</sup> Allband claims that in the interim its customers would necessarily be denied local service rate relief, leaving them to bear the full brunt of Allband's "far-higher-than-national-average-loop-costs, resulting in customer charges on the order of \$350 per month."<sup>31</sup> Allband argues that granting the

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<sup>24</sup> *Id.*

<sup>25</sup> See Direct Petition at 10 (citing *Adak Eagle Enterprises, LLC d/b/a Adak Telephone Utility, Petition for Waiver of Sections 36.611, 36.612, 54.301(b), 54.314(d), 54.903(a)(3), 69.2(hh) and 69.3(e)(6) of the Commission's Rules*, CC Docket No. 96-45, Order, 20 FCC Rcd 20543 (Wireline Comp. Bur. 2005) (*Adak Order*); *Sacred Wind Communications, Inc. and Qwest Corporation, Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, Sacred Wind Communications, Inc., Related Waivers of Parts 36, 54, and 69 of the Communication's Rules*, CC Docket No. 96-45, Order, 21 FCC Rcd 9227 (Wireline Comp. Bur. 2006) (*Sacred Wind Order*)).

<sup>26</sup> Allband Communications Cooperative Petition for Waiver of Sections 69.2 and 69.601 of the Commission's Rules, WC Docket No. 05-174 (filed Apr. 7, 2005) (Allband Part 69 Petition). Allband was formed under the laws of the state of Michigan in 2003 and was granted a license to provide basic local exchange service in an area that was never included in any other incumbent LEC's territory. See Allband Part 69 Petition at 2-3.

<sup>27</sup> See Letter from Paul M. Hartman, General Manager, Allband Communications Cooperative, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-174 (filed June 14, 2005) (Allband Letter).

<sup>28</sup> *Allband Communications Cooperative Petition for Waiver of Sections 69.2(hh) and 69.601 of the Commission's rules*, WC Docket No. 05-174, Order, 20 FCC Rcd 13566 (Wireline Comp. Bur. 2005) (*Allband Order*); 47 C.F.R. §§ 69.2(hh) and 69.601.

<sup>29</sup> See Allband Petition at 2. Allband activated its first customer on November 30, 2006. See <http://www.allband.org/news.html> (last visited Jan. 12, 2010).

<sup>30</sup> See Allband Petition at 7-8.

<sup>31</sup> See *id.* at 6.

requested waiver, which is similar to waivers that have been granted in the *Adak Order* and the *Mescalero Order*, will avert that result and further the public interest.<sup>32</sup>

#### IV. DISCUSSION

##### A. Direct

10. We deny Direct's request for waiver of sections 36.611 and 36.612 of the Commission's rules. Direct has not demonstrated that special circumstances exist to warrant granting a waiver of section 36.611 and 36.612 of the Commission's rules. Although Direct is a newly formed incumbent LEC, it acquired the EMC municipal system that was already providing service to approximately 2,400 subscribers.<sup>33</sup> Direct did not present any evidence to indicate that telephone penetration rates are extraordinarily low in its service territory.<sup>34</sup> We also note that Direct's monthly basic local residential and business per line rates, as of September 1, 2009, are \$16.50 and \$27, respectively, which are at or below the monthly local rate of \$27 in effect at the time the service territory was acquired from EMC and are comparable to the nationwide local rate for urban areas.<sup>35</sup> We conclude, based on the record before us, that Direct's rates are not excessive, Direct has not demonstrated that the penetration rates in its service territory are excessively low, nor has Direct provided evidence of its inability to maintain and upgrade its loop infrastructure in the absence of immediate high-cost loop support.<sup>36</sup> Accordingly, we deny Direct's request for waiver of sections 36.611 and 36.612 of the Commission's rules.<sup>37</sup>

<sup>32</sup> See *id.* at 6 (citing *Adak Order*, 20 FCC Rcd 20543; *Mescalero Order*, 16 FCC Rcd 3813).

<sup>33</sup> See Direct Petition at 4.

<sup>34</sup> In the *Sacred Wind Order*, the Bureau concluded that it was in the public interest to grant Sacred Wind Communications, Inc. (Sacred Wind) a waiver of sections 36.611 and 36.612 to allow Sacred Wind to receive immediate high-cost loop support. In 2004, Sacred Wind acquired exchanges from Qwest Corporation to provide telecommunications services on approximately two million acres located almost exclusively within Navajo Nation Lands in New Mexico. Sacred Wind's service territory, at the time of the acquisition, had only a 28 percent penetration rate, which was far below the nationwide penetration rate and also was lagging the 38 percent penetration rate for the Navajo Nation as a whole. See *Sacred Wind Order*, 21 FCC Rcd at 9231, para. 9.

<sup>35</sup> See <http://www.directcom.com/eaglemtn/local.htm> (last visited Jan. 12, 2010); Direct Petition at 4; Direct Study Area Petition at 5-6. As of October 15, 2007, the average urban residential rate was \$25.62 including subscriber line charges, taxes, 911, and other charges. See *Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service*, Industry Analysis and Technology Division, Wireline Competition Bureau, Table 1.1 (Aug. 2008). In contrast, in the *Adak Order*, the Bureau concluded that it was in the public interest to grant Adak Telephone Utility (Adak Telephone) a waiver of sections 36.611 and 36.612 to allow Adak Telephone to receive immediate high-cost loop support as of the date the Alaska Commission designated it an ETC, rather than requiring it to wait up to two years under the customary lag in receiving such support. Absent immediate universal service support Adak Telephone would have continued to have extremely high monthly basic local service rates of \$100 and \$130 for residential and business customers, respectively. See *Adak Order*, 20 FCC at 20546-7, paras. 8, 10.

<sup>36</sup> See Direct Petition at 8.

<sup>37</sup> Although we decline to grant Direct a waiver to enable it to receive immediate high-cost loop support, we note that Direct has received \$814,004 and \$1,592,261 in universal service local switching and interstate common line support, respectively, since commencement of operations. See <http://www.usac.org/hc/tools/disbursements/default.aspx> (for Direct's study area code 500758) (last visited Jan. 12, 2010). Pursuant to sections 36.611 and 36.612 of the Commission's rules, Direct began receiving high-cost loop support in January 2008 and has received \$731,621 in high-cost loop support through July, 2009. See *id.*

**B. Allband**

11. We also deny Allband's request for waiver of sections 36.611 and 36.612 of the Commission's rules. We find that Allband's circumstances are not similar to other instances in which the Bureau has granted waivers of sections 36.611 and 36.612.<sup>38</sup> Although Allband claims that in the interim, while awaiting high-cost loop support, its customer charges would be on the order of \$350 per month, we note that Allband's basic local rate of \$19.90 per month, in effect since the beginning of its operations, is comparable to residential rates for local service in urban areas.<sup>39</sup> Allband has not presented any evidence that telephone penetration rates will be low because of pervasive poverty in its service territory nor has Allband provided evidence of its inability to develop and maintain its loop infrastructure in the absence of immediate high-cost loop support.<sup>40</sup> Accordingly, we deny Allband's request for waiver of sections 36.611 and 36.612 of the Commission's rules.

12. In its filings, Allband has incorrectly characterized the timing of its first receipt of high-cost loop support under the operation of the Commission's rules. Allband states that a strict application of sections 36.611 and 36.612 of the Commission's rules would preclude Allband from receiving full high-cost loop support until either the third quarter of 2008 or the first quarter of 2009, depending on whether it provides service to its first customer in the third or fourth quarter of 2006, respectively.<sup>41</sup> As explained above, loop costs incurred for a calendar year are submitted to NECA by July 31 of the following calendar year and payments to eligible carriers begin the second calendar year after the costs are incurred.<sup>42</sup> Allband, which began customer operations on November 30, 2006, began to receive monthly high-cost loop support payments in January 2008 (thirteen months after customer operations began) not in the third quarter of 2008 as it describes.<sup>43</sup> We emphasize that, although we deny Allband's

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<sup>38</sup> See *supra* notes 34 and 35.

<sup>39</sup> See <http://www.allband.org/services.shtml> (last visited Jan. 12, 2010); *supra* notes 34 and 35. The Bureau granted Mescalero Apache Telecom, Inc. (Mescalero) a waiver of sections 36.611 and 36.612 to allow Mescalero to receive immediate high-cost loop support for an area it acquired from Qwest Corporation serving the Mescalero Apache Reservation in New Mexico that had only a 52 percent penetration rate. See *Mescalero Order*, 16 FCC Rcd at 3822-23, para. 24. In granting waivers to both Sacred Wind and Mescalero, the Bureau emphasized the Commission's goal to promote telecommunications deployment and subscribership for the benefit of those living on federally-recognized tribal lands and Alaska Native regions. See *Sacred Wind Order*, 21 FCC Rcd at 9239, n.99 (citing *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12222-24, paras. 23, 26 (2000) (*Twelfth Report and Order*)); *Mescalero Order*, 16 FCC Rcd at 3825, para. 29 (citing *Twelfth Report and Order*, 15 FCC at 12222, paras. 22-23).

<sup>40</sup> Many of the area's homes are reported to be weekend retreats in the Robbs Creek's area of northern Michigan. See *Don't Get Mad, Get ILEC*, Telephony Online, Mar. 1, 2006, [http://telephonyonline.com/mag/telecom\\_dont\\_mad\\_ilec/index.html](http://telephonyonline.com/mag/telecom_dont_mad_ilec/index.html) (last visited Jan. 12, 2010).

<sup>41</sup> See Allband Petition at 7-8.

<sup>42</sup> See *supra* para. 2.

<sup>43</sup> Pursuant to the operation of sections 36.611 and 36.612 of the Commission's rules, Allband has received \$687,388 in high-cost loop support since January 2008. See <http://www.usac.org/hc/tools/disbursements/default.aspx> (for Allband's study area code 310542) (last visited Jan. 12, 2010). Allband also has received \$676,403 and \$230,904 in interstate common line support and local switching, respectively, since commencement of operations. *Id.*

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petition, Allband will receive high-cost loop support pursuant to sections 36.611 and 36.12 for costs incurred since commencement of its customer operations.<sup>44</sup>

**V. ORDERING CLAUSES**

13. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of sections 69.611 and 69.612 of the Commission's rules, 47 C.F.R. §§ 69.611 and 69.612, filed by Direct Communications Cedar Valley, LLC on August 29, 2006, IS DENIED, as described herein.

14. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of sections 69.611 and 69.612 of the Commission's rules, 47 C.F.R. §§ 69.611 and 69.612, filed by Allband Communications Cooperative on September 5, 2006, IS DENIED, as described herein.

15. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sharon Gillett  
Chief  
Wireline Competition Bureau

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<sup>44</sup> See *supra* para. 2.