



Federal Communications Commission
Washington, D.C. 20554

DA 15-490

April 23, 2015

Chris Nierman, Esq.
Senior Counsel, Federal Affairs
General Communication, Inc.
1900 L St., N.W., Suite 700
Washington, DC 20036

RE: Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub Inc., and Unicom, Inc. for Consent To Assign Licenses to The Alaska Wireless Network, LLC
WT Docket No. 12-187, WC Docket No. 09-197

Dear Mr. Nierman:

You have informed us by letter, dated March 23, 2015 (“Letter”), that ACS Wireless, Inc. (“ACS”) recently has taken certain actions relating to the relationship among ACS, GCI Communication, Inc. (“GCI”), and their then jointly-owned subsidiary, The Alaska Wireless Network, LLC (“AWN”), which you indicate bears on commitments made in the above-captioned proceeding (the “Original Transaction”). As reflected in the Commission’s *Order*¹ regarding the Original Transaction, GCI and ACS made certain commitments, among which were to abide by a set of policies and procedures to protect against the disclosure of non-public, commercially sensitive information between GCI and ACS (the “CSI Policies”). We found that these commitments ameliorated concerns about harmful coordinated interaction that could occur as a result of the assignment of various spectrum licenses to the jointly-owned subsidiary, AWN, and we conditioned our consent accordingly.² Your Letter requests that, in light of ACS having divested itself of its interest in AWN, the Wireless Telecommunications Bureau conclude that GCI and AWN need no longer comply with the CSI Policies.³ For the reasons explained below, we grant this request.

In the Original Transaction, pursuant to sections 214(a) and 310(d) of the Communications Act of 1934, as amended, we were required to consider whether a proposed assignment of licenses and authorizations would serve the public interest, convenience, and necessity.⁴ GCI and ACS had proposed to assign substantially all of their spectrum licenses and wireless infrastructure to a joint venture company, AWN, which then would develop and sell wholesale wireless service to both GCI and ACS.⁵ In our review of the proposed transaction, we had significant concerns about competitive harms arising in Alaska because GCI and ACS were the only two major Alaska-based mobile wireless providers, leaving AT&T as the sole remaining major provider of mobile services to Alaskan consumers.⁶ Moreover, the reduced number of providers could have increased the potential for coordinated interaction between the

¹ Applications of GCI Communication Corp., ACS Wireless License Sub, Inc., ACS of Anchorage License Sub Inc. and Unicom, Inc. for Consent To Assign Licenses to The Alaska Wireless Network, LLC, *Memorandum Opinion and Order and Declaratory Ruling*, 28 FCC Rcd 10433 (2013) (“*Order*”).

² *Order*, 28 FCC Rcd at 10462-63, 10465 ¶¶ 71, 77.

³ Letter at 2.

⁴ 47 U.S.C. §§ 214(a), 310(d).

⁵ *Order*, 28 FCC Rcd at 10436 ¶ 9.

⁶ *Order*, 28 FCC Rcd at 10434 ¶ 2.

retail operations of GCI and ACS.⁷ We concluded that specific contractual provisions governing the relationships among GCI, ACS, and AWN were key to evaluating the proposed joint venture,⁸ and we ultimately found that certain commitments made by GCI and ACS ameliorated the potential for harmful coordinated action.⁹ In particular, GCI and ACS agreed to abide by the CSI Policies to protect against the potential disclosure of non-public, commercially sensitive information between GCI and ACS,¹⁰ and these CSI Policies are memorialized in the AWN Joint Operating Agreement.¹¹ The *Order* treats this commitment among others as conditions of consent to the AWN joint venture.¹²

Your Letter represents that ACS now has exited the retail wireless business through the sale of its retail wireless customers to GCI.¹³ The Letter also represents that ACS has divested its interest in AWN, which now is a single member LLC wholly owned and controlled by GCI.¹⁴ The Letter additionally states that ACS no longer is a member of AWN, has no members on AWN's Board, has no ongoing involvement with AWN, and neither provides nor has access to non-public commercially sensitive information through AWN.¹⁵ Your Letter concludes that, because GCI and ACS no longer are retail wireless service competitors and because ACS will not gain access to information via the AWN Board (and *vice versa*), the underlying reason for the CSI Policies no longer is present.¹⁶

GCI and AWN request in the Letter that, given these changes in circumstances, GCI and AWN no longer should be required to comply with the CSI Policies.¹⁷ Because the pertinent bases for these conditions as they relate to the CSI Policies no longer are present given ACS's divestiture of its ownership interest in AWN and its exit as a retail wireless service competitor, we grant the request and hereby remove the CSI Policies condition. The remaining conditions specified in the *Order* shall remain in effect to the extent specified therein.¹⁸

This action is taken under delegated authority pursuant to section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

⁷ *Order*, 28 FCC Rcd at 10460-62 ¶¶ 65-70.

⁸ *Order*, 28 FCC Rcd at 10434 ¶ 2.

⁹ *Order*, 28 FCC Rcd at 10462-63 ¶ 71.

¹⁰ *Order*, 28 FCC Rcd at 10462-63 ¶ 71.

¹¹ Specifically, the CSI Policies are set forth in Exhibit L to the AWN Joint Operating Agreement (publicly available in Letter from Carl Northrop, John Nakahata, counsel for GCI, Karen Brinkmann, counsel for ACS Wireless, and Bonnie Paskvan, General Counsel, AWN, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-187, July 2, 2013).

¹² *Order*, 28 FCC Rcd at 10465, 10484 ¶¶ 77, 140.

¹³ Letter at 1.

¹⁴ Letter at 1-2.

¹⁵ Letter at 2.

¹⁶ Letter at 2.

¹⁷ Letter at 2.

¹⁸ *Order*, 28 FCC Rcd at 10484 ¶ 140.

Roger C. Sherman
Chief, Wireless Telecommunications Bureau