

Thus, the FCC's Bush Policy remains the only significant regulatory barrier to facilities-based MTS competition throughout Alaska.

On February 15, 2002, the Commission released the *NPRM* in this proceeding, proposing to discontinue the Alaska Bush Policy. The Commission noted in the *NPRM* that the Alaska Bush Policy is based on the proposition that applications for "duplicative" Alaska Bush earth stations are mutually exclusive. It also noted that the Alaska Bush Policy was formulated prior to the advent of MTS competition, and is based on a regulatory policy designed to prevent non-dominant carriers from investing in facilities at their own expense to compete with a carrier with an established facilities monopoly. Finally, the Commission pointed to the fact that the RCA has removed the parallel intrastate entry barrier. Consequently, the Commission tentatively concluded that the time has arrived to remove the barrier against facilities-based interstate MTS in the Alaska Bush as well. The Commission also tentatively concluded that facilities-based competition in the provision of interstate MTS in Alaska Bush communities will result in public interest benefits comparable to those that were realized in the 50 Alaska Bush communities in which GCI has been allowed to provide competitive MTS service. Accordingly, the Commission invited comment on its proposal to abolish the Alaska Bush Policy.

Three parties, Alascom and AT&T, GCI, and the RCA, have filed comments in response to the *NPRM*. All three commenters support the Commission's proposal to eliminate its prohibition on the installation or operation of more than one satellite earth station in any Alaska Bush community for the competitive carriage of interstate MTS.

The RCA submits that since 1995, when both the RCA and the FCC waived applicable Alaska Bush facility restrictions to allow GCI to construct duplicate earth stations in Bush communities, consumers have benefited from lower retail rates and improved service quality. According to the RCA, these benefits are what ultimately motivated it to eliminate the State's restrictions on facilities-based intrastate MTS competition in Bush Alaska in 2000. Moreover, the RCA says that facilities-based MTS competition in Alaska Bush communities will also establish an incentive for Alascom to operate more efficiently.

GCI provides specific examples of how competition between it and Alascom has benefited the Alaska Bush communities with improved

telecommunication efficiency and new service offerings. According to GCI, the first and perhaps most significant technological improvement was the implementation of its Demand Assigned Multiple Access (DAMA) satellite transmission system, which allows bandwidth to be used more efficiently. Before DAMA, all channels were assigned exclusively to a certain community and could not be used for other communities; DAMA also eliminated the need for a "double hop" configuration, where two satellite hops were needed to complete a call, resulting in signal delay and frequency echo, and rendering facsimile transmission unreliable and data transmission impossible. GCI states that the success it has achieved with DAMA has caused Alascom to upgrade many of its Alaska Bush earth station facilities to digital DAMA technology. GCI also states that greater facilities efficiency has enabled it to offer telemedicine in Alaska Bush communities, as well as reliable Internet connection for schools and libraries in nearly all of the Alaska Bush communities it serves. In addition, GCI says all customers in Alaska have benefited significantly from decreased long-distance rates since it entered the market.

Alascom and AT&T also support repeal of the Alaska Bush Policy, but contend that other deregulatory actions, which they requested in a March 10, 2000 Petition, "are indivisible aspects of the [Alaska] Bush Policy" and thus, must be acted upon simultaneously. See Public Notice, *Pleading Cycle Established for Comments on AT&T and Alascom Petition for Structural and Other Regulatory Relief* in DA 00-603, released March 17, 2000 [not published in the **Federal Register**]. In this Petition, Alascom and AT&T requested, among other relief, that the Commission eliminate structural separation and tariffing requirements under which Alascom has been providing certain carrier-to-carrier services in Alaska. On January 7, 2003, Alascom filed a petition for waiver from the requirement that it annually file revised cost-based rates for these carrier-to-carrier services. See also Public Notice, *Pleading Cycle Established for Comments on AT&T and Alascom Petition for Structural and Other Regulatory Relief* in DA 00-603, released March 17, 2000 (not published in the **Federal Register**). Alascom and AT&T point out in these petitions that Alascom now must disaggregate all of its service costs within Alaska by location, resulting in more than 900 separate cost points. Alascom and AT&T contend that no other carrier has ever

been forced to provide a service based upon stand-alone location-specific costs. The present tariff requirements, they submit, impose unwarranted competitive regulatory burdens that are preventing Alascom from providing its customers with improved service. These petitions are under consideration in separate dockets.

The need for the Alaska Bush Policy is over. As was noted in the *NPRM*, the "Alaska Bush Policy is an isolated exception to the Commission's interstate MTS open-entry policy." *NPRM*, 67 FR 37750 (May 30, 2002). It was based on the assumption that authorizing more than one earth station in an Alaska Bush community would be duplicative and thus needlessly expensive, since a single earth station is sufficient to accommodate all the calls placed to or from the community. The GCI experience has demonstrated that the concern underlying the Alaska Bush Policy is no longer warranted. GCI has provided us with what we believe to be a preview of the public interest benefits that will be realized by allowing open-entry, facilities-based competition in the provision of interstate MTS in Alaska Bush communities. We believe that by eliminating the Alaska Bush Policy, citizens of the Alaska Bush communities will benefit from improved telecommunications services provided by both Alascom and its competitors at lower prices. For these reasons, we eliminate the Alaska Bush Policy.

Finally, we note that this proceeding was established for the limited purpose of considering the elimination of the Alaska Bush Policy. Consequently, we decline to address at this time other potential changes to our regulatory requirements for Alaska. In particular, because, as indicated previously, eliminating the Alaska Bush Policy would promote important public interests, we decline to defer this deregulatory step pending our consideration of Alascom's and AT&T's March 2000 and January 2003 petitions.

For the reasons set forth on the record in this proceeding, we abolish the Alaska Bush Policy, thus eliminating the restriction on facilities-based competition in the Alaska Bush.

Final Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAA). Title II of the CWAA is the Small Business Regulatory