

February 1, 2002

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 Twelfth Street S.W.
Washington D.C. 20554

RE: CS Docket 01-348

Dear Ms. Salas:

Enclosed is an electronic file of the Comments of the Regulatory Commission of Alaska in response to the CS Docket 01-348, Public Notice (DA 01-3005), released December 26, 2001. The comments were approved at a public meeting held on January 30, 2002.

Sincerely,
REGULATORY COMMISSION OF ALASKA

G. Nanette Thompson
Chair

E-MAIL LIST
CS 01-348

February 1, 2001

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

In the Matter of)
)
EchoStar Communications Corporation,) CS Docket 01-348
General Motors Corporation, Hughes)
Electronics Corporation Seek FCC Consent)
For A Proposed Transfer of Control)

Comments of the
Regulatory Commission of Alaska

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**Comments of the
Regulatory Commission of Alaska**

I. Introduction

The Regulatory Commission of Alaska (RCA) appreciates the opportunity to respond to the Public Notice (PN) released by the Cable Services Bureau on December 26, 2001 as part of CS Docket No. 01-348. The PN sought comments from interested parties on the proposed merger of Hughes Electronics Corporation (Hughes) and EchoStar Communications Corporation (EchoStar). The Regulatory Commission of Alaska does not support the approval of this application without the addition of conditions to mitigate the potential negative impact of this merger on rural areas.¹

II. The Merger of Hughes and EchoStar is Likely to Hamper Future Deployment of DBS Broadband Services in Rural Alaska

Access to the Internet via broadband technologies has revolutionized business processes and revitalized the economy in many parts of our country. The ability to move a large amount of data quickly and reliably over great distances has enabled businesses to

move from urban areas to rural areas where they can enjoy the quality of life afforded in those areas and provide those communities with economic development opportunities. Consumers in urban areas enjoy Internet access at reasonable speeds, and often may choose among service providers that can offer comparable services through different broadband technologies. Consumers in rural areas have few or no choices for broadband access.²

The positive externalities that have resulted from broadband access to the Internet in many urban and rural communities have been elusive for most people in rural Alaska. The cost of transporting traffic between exchanges via satellite and the limited bandwidth available on satellites have limited the availability of broadband in rural Alaska.³ DBS broadband service appears to be one of Alaska's best options for reaching our remotest areas. The merger of the only two providers of DBS Broadband service will likely reduce the options rural Alaskans have for the purchase of broadband services.

III. Alaska's Unique Characteristics Make Reliance on Satellite-Based Telecommunications Services A Necessity.

Adequate telecommunications are more critical in Alaska to the welfare of our state than in other states. Lacking a highway system in most of our rural areas, we depend upon telecommunications to provide basic education, public health, and public services. The greatest need for these services is in areas with the highest costs of

¹ We acknowledge the comments of the State of Alaska, which express the same conclusion and discuss different issues.

² See FCC Docket 98-146 Second Report ¶ 216 concerning analysis of rural areas.

³ Telecommunications traffic is carried between Alaska's communities by satellite, rather than fiber optic cable, in most cases.

providing them. The harsh climate, sparse population, and northern location make telecommunications services a challenge.

Many rural communities rely on expensive traditional satellite and microwave technology to transport data to and from the Internet. The high cost to build and maintain these facilities has, in many areas, precluded Interexchange Carriers from providing dial-up service at adequate transmission speeds at rates affordable to many rural customers. In an effort to minimize this cost of connecting rural areas, IXCs often limit bandwidth available to the rural consumers to a maximum dial-up speed of 14.4Kbps. To further aggravate this problem, rural consumers who connect to the Internet via dial-up service outside their local calling area are usually subject to toll charges ranging from \$.10 to \$.25 per minute, in addition to the recurring ISP subscription charge. For many in rural Alaska, the cost of access deters on-line usage.

Unlike the continental United States where cable broadband services are widely available and are now the prevalent choice for residential broadband consumers, the scenario is quite different in many communities in rural Alaska. While cable facilities may exist in rural locations, cable modem services are of little use, if they exist at all. The costs of connecting the cable system to a remote Internet Service Provider often requires the same expensive satellite transport over systems similar to those used for traditional voice and data traffic. Thus, access to the Internet via cable facilities is not a cost effective option for residents of many rural communities.

The promise of satellite services is vital to Alaska's goal of ensuring that rural consumers have a choice of technological platforms for delivery of broadband services. The challenging economics of serving rural Alaska make preserving the benefits of

competition for consumers vital. If Alaskans are to have reasonable access to advanced services, they must be offered those services by a market in which competitive pressures operate to keep prices down. Satellite services may provide significant cost and logistics advantage over other alternatives in many remote locations with small populations.

IV. Widespread Availability of DBS Broadband Services May Be One of Rural Alaska's Best Hopes in Accessing the Internet at Broadband Speeds

DBS Broadband may be one of the best hopes for providing broadband service to rural Alaska. Rural residents that otherwise would not have broadband service can access the Internet at broadband speeds using this technology.⁴ Subscribership has risen as DBS dealers increasingly market the service in rural areas and consumers become more familiar with the technology. Starband provides broadband access to many areas of Alaska that otherwise would not have such service.

Much of Alaska falls within Starband's current coverage area, but service is either unavailable or available only with very expensive equipment and installation services in the Northern and Western parts of the state. Approval of this merger application should be conditioned on the merged entity serving all of Alaska, except where they can show it is physically impossible. Likewise, the merged entity should be required to commit to serving all of Alaska, except where it is physically impossible with any satellite platform launched in the future.

⁴ The Starband system currently operating in many rural communities in Alaska offers downstream speeds up to 500Kbps and targeted upstream speeds of 150Kbps.

V. Approval of This Merger May Hinder Development of a Competitive Market for Broadband Services in Rural Alaska

Hughes' Spaceway and EchoStar's affiliate "Wildblue" announced plans to deploy next generation satellite service in 2003. These services will be able to offer advanced broadband services, targeted towards different consumer groups and would provide rural consumers a choice of service providers.⁵ If the merger is allowed, competition between them would be eliminated and plans for one of these two satellite system deployments may be cancelled. For rural Alaskans, this consolidation may mean the continued absence of competition in the DBS broadband market and possible elimination of a next generation satellite system that may serve many areas of Alaska. The harm caused by removing a potential competitor from the market in Alaska could be mitigated by a requirement that the merged entity commit to serve the entire state with the current and next generation technology at prices comparable to those charged in the continental United States.

Without the competitive market pressures providing incentive for innovation and putting a downward force on price, many rural Alaskans who do not have a broadband alternative may be left without service or may be forced to pay rates much higher than those for comparable services in the continental United States. We believe the most viable solution for keeping the development and deployment of advanced services on-track is continued competition. If the merger is approved, we fear the resulting provider will have less incentive than two separate companies to lower prices or innovate in a captive rural market, in the case of Alaska, to improve service coverage over more of the

state. We urge the FCC to mitigate this harm by requiring the merged entity to offer service throughout the state at prices and terms of services comparable to what is offered in the continental US.

We believe the continued competition in this broadband market will aid in closing the digital divide between rural and urban Alaskan communities. The future deployment of advanced satellite systems is especially important because it offers one of our best hopes for providing broadband service in many of Alaska's rural communities.

VI. Conclusion

The competitive market and technology advances suggest that one day, all Americans will have reasonable access to broadband services. The competitive DBS Broadband marketplace has slowly begun to penetrate and gain market acceptance in rural Alaska. This technology offers great promise for providing broadband service to our remote rural areas. Merger of the two entities that could provide consumers with choices and increased competitive pressures in the market may stall progress towards making these services available throughout the state. The Regulatory Commission of Alaska believes that the merger of Hughes and EchoStar into a single Direct Broadcast Satellite Service provider will hamper future deployment of broadband services to residents of rural Alaska. This merger should only be approved with conditions requiring that service with current satellite technology, and the next generation of technology be available throughout Alaska at prices, terms and conditions comparable to what is offered in the rest of the United States.

⁵ Wildblue currently does not possess the authorizations to serve Alaska. However, the company seeks to obtain additional licenses and exploring possible partnerships that could expand service their geographic

RESPECTFULLY SUBMITTED THIS 1st day of February, 2002

G. Nanette Thompson, Chair
Regulatory Commission of Alaska

coverage area.