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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

G. Nanette Thompson, Chair
Bernie Smith
Patricia M. DeMarco
Will Abbott
James S. Strandberg

In the Matter of the Consideration of the Impact of)
Rules of the Federal Communications Commission on)
the Regulations at 3 AAC 53.800 – 3 AAC 53.899)
Governing the Provision of Privately Owned Pay)
Telephone Service and the Adoption of Regulations)
To Govern the Provision of Public Interest Pay)
Telephone Service at 3 AAC 53.740 - 3 AAC 53.799)

R-97-3¹

ORDER NO. 12

**ORDER ADOPTING REGULATIONS, AS AMENDED;
CLARIFYING COINLESS TELEPHONE RESTRICTIONS;
AND AMENDING DOCKET TITLE**

BY THE COMMISSION:

Summary

By this Order we adopt regulations governing the provision of and funding for public interest pay telephones (PIPTs). We also provide clarification regarding installation of coinless telephones and modify the title of this Docket to reflect the adoption of PIPT regulations.

Background

By Order R-97-3(8), dated December 20, 1999, we issued for comment amendments to the regulations initially proposed in this proceeding governing the

¹Department of Law File No. 993-93-0111.

1 provision of PIPTs.² The changes to the proposed regulations included adding PIPTs
2 as one of the programs supported by the Alaska Universal Service Fund (AUSF) and
3 establishing procedures for AUSF-fund distribution for PIPTs.

4 We also proposed amendments to limit the designation of PIPTs to
5 exchanges where a pay telephone would not otherwise exist; i.e., PIPTs are not likely to
6 be designated in exchanges where there are private pay telephone providers other than
7 the incumbent local exchange carrier (ILEC). The initial focus of providing for PIPTs is
8 on exchanges where there are no pay telephones and on exchanges in which there is
9 only one pay telephone and the existing provider (virtually in every case this will be the
10 ILEC) can show service is being provided at a loss. We stated that we might consider
11 the provision of more than one PIPT in an exchange but that this would not be the norm.
12 In such cases, the ILEC would be required to show that there are exceptional
13 circumstances such as an exchange with an unusually large geographical area.

14 Further, we proposed changes to the PIPT-designation process,
15 designated the cost basis on which PIPT providers would be compensated, and clarified
16 PIPT service requirements. We also added new provisions regarding use of coin and
17 coinless telephones for PIPT service and required that PIPTs be located on public or
18 utility property, to the extent possible.

19 Because of extensive written and oral comments received on the previous
20 version of these regulations and the fact that many of the suggestions therein had been
21 incorporated in the amended regulations, we determined that an additional public
22 hearing was unnecessary on the proposed amended regulations.

23 ²By Order R-97-3(6), dated March 19, 1999, the former Alaska Public Utilities
24 Commission issued proposed regulations governing the provision of public interest pay
25 telephones. Comments were filed on those proposed regulations, and a public hearing
26 was held on July 20, 1999. The written and oral comments led us to amend the initially
proposed regulations and issue them for comment.

1 In response to that public notice, we received comments from the Rural
2 Coalition³ (RC) and United Utilities, Inc. (UUI). In general, both commentators focused on
3 the issue of the number of PIPTs to be funded in each exchange, as provided under
4 3 AAC 53.745.⁴

5 The RC supported the proposed amended PIPT regulations but was
6 concerned that the standard for proving the need for more than one PIPT per exchange
7 was too stringent and asserted that geographic separation of communities in rural
8 Alaska should presumptively qualify for more than PIPT per exchange. The RC
9 provided information to support its arguments.

10 Similarly, UUI requested we broaden the criteria by which more than one
11 PIPT may be designated per exchange. UUI maintained that the number of PIPTs
12 should not be limited to only one per exchange nor should the designation be limited to
13 exchanges where there are currently only one or no pay telephones.

14 Further, UUI stated that it may not be possible to locate PIPTs on only
15 public or utility property as proposed in our regulations. UUI asserted that in rural
16 Alaska some villages do not have public property that is available or suitable for PIPTs
17 and, in those instances, pay telephones may be located on private property that is

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20 ³The RC is comprised of the following ILECs: Arctic Slope Telephone Association
21 Cooperative, Inc.; Alaska Telephone Company; Bettles Telephone, Inc.; Bristol Bay
22 Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative,
23 Inc.; Interior Telephone Company; Ketchikan Public Utilities, Telephone Division;
Matanuska Telephone Association Cooperative, Inc.; Mukluk Telephone Company, Inc.;
North Country Telephone, Inc.; Nushagak Telephone Cooperative, Inc.; and OTZ
Telephone Cooperative, Inc.

24 ⁴As proposed 3 AAC 53.745 (b) provides:

- 25 (b) The commission will, in its discretion, designate at least one
26 public interest pay telephone in each exchange in which a pay
telephone would not otherwise be available to the public.

1 publicly available. UUI requested that we not preclude such pay telephones from being
2 designated as PIPTs.

3 In order to determine the impact on the AUSF of funding more than one
4 PIPT per exchange⁵ as requested by the RC and UUI, we required the ILECs to provide
5 data on each requested PIPT. We also required each ILEC to file a map of each
6 exchange where one or more PIPTs could be requested and a written justification for
7 each requested PIPT in excess of one per exchange.⁶ In response to requests for
8 extension of time to submit the data, we extended the deadline for filing the required
9 information.⁷

10 We considered the proposed regulations at our Public Meeting of
11 October 4, 2000. At that Meeting, Staff presented an estimate⁸ of the impact of funding
12 the total number of PIPTs as requested by the filing ILECs. Staff stated that while
13 additional information was needed before a final determination could be made as to the
14 actual costs of PIPTs and the number that should be approved for funding, we could
15 extrapolate information sufficient to determine the impact on AUSF of funding more than
16 PIPT per exchange.⁹ Based on the PIPT information presented, Staff concluded that
17 the impact of funding all the requested PIPTs would be in excess of \$160,000.

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19 ⁵The Commission Staff (Staff) roughly estimated an annual subsidy of \$2,000 per
20 PIPT and that the annual financial requirement on AUSF could range from \$86,000 to
\$542,000 depending on how many PIPTs were allowed per exchange.

21 ⁶Order R-97-3(9), dated June 20, 2000.

22 ⁷Orders R-97-3(10) and (11), dated July 14 and 21, 2000, respectively.

23 ⁸A copy of that spreadsheet is attached to this Order as Appendix A.

24 ⁹Staff maintained that some of the PIPT information needed clarification; that,
25 because of format-filing inconsistencies, some of the data might be questionable; that
26 not all ILECs had filed PIPT information; and that Staff had not had an adequate
opportunity to analyze fully all the data that had been filed. Staff stated that the
additional or supplemental information could be gathered under the procedures for
determination as to the number of PIPTs to be funded, etc., as provided for under
3 AAC 53.750.

1 Staff asserted that the details of the PIPT levels and funding are
2 dependent on the additional and/or supplemental information it believed was necessary
3 but that those details do not affect the proposed regulations. Moreover, Staff noted that
4 the regulations themselves provide for final PIPT designation and funding determination
5 following adoption of the proposed regulations. Staff recommended that adoption of the
6 proposed regulations proceed expeditiously because public notice of those proposed
7 regulations would be stale by the end of the year.¹⁰

8 Staff also stated that the proposed regulations had been edited to comply
9 with DOL drafting requirements, including combining and renumbering several
10 provisions of the regulations,¹¹ and recommended three additional amendments.
11 First, Staff recommended that 3 AAC 53.745(b) be amended to provide that we will
12 designate "one or more" PIPTs per exchange. Staff believed this change should
13 alleviate concerns that the former language did not recognize the need for PIPTs in
14 rural Alaska and that the standard for seeking support for more than one PIPT per
15 exchange was ambiguous and costly.

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¹⁰ The Department of Law has determined that public notice of regulations is
23 stale after one year. We issued notice of these proposed PIPT regulations on
December 20, 2000.

24 ¹¹Details of this recommendation is available in the transcript of the October 4,
25 2000, Public Meeting and, thus, will not be set out in this Order.

1 Second, Staff recommended that 3 AAC 53.760(c)¹² be amended to clarify
2 the costs that will be allowable for funding a PIPT and recognize UUI's arguments that
3 locating PIPTs on public or utility property might not be possible in rural Alaska, and, in
4 such instances, costs associated with location of such PIPTs should be recoverable as
5 an expense. With those amendments, 3 AAC 53.760(c) reads:

6 (c) Actual net cost is equal to allowable costs less all revenues
7 received from the public interest pay telephone including revenues imputed
8 by the commission. Allowable costs include a reasonable allocation of
9 operating expenses, depreciation, taxes, [OVERHEAD COSTS] and a
10 reasonable return on invested capital, subject to annual commission review
11 [AND ARE SUBJECT TO COMMISSION REVIEW AS TO THE REASONABLENESS AND PRUDENCY OF OPERATING EXPENSES,
12 INVESTMENT, AND PROFIT]. Location rental is not an allowable cost
13 unless specifically authorized by the commission.¹³

14 Third, Staff recommended addition of a new subsection (d) to
15 3 AAC 53.670¹⁴ to clarify that PIPT costs will be reviewed annually. While the details of
16 such filing and annual review need to be developed, Staff believed it was necessary to
17 clarify that the PIPT costs must be reviewed annually in conjunction with developing the
18 annual AUSF support budget under 3 AAC 53.340 – 3 AAC 53.350. That new
19 subsection (d) reads:

20 (d) The process for annual review of the funding requirements for
21 public interest pay telephones will be established by order of the
22 commission.

23 At the Public Meeting, the Commission accepted Staff's recommendations
24 and adopted the proposed PIPT regulations as amended. Those adopted PIPT
25 regulations are attached to this Order as Appendix B. For record-keeping purposes, the
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23 ¹²This section was previously numbered 3 AAC 53.675.

24 ¹³Material underlined is being added; material bracketed and capitalized is being
25 deleted.

26 ¹⁴Addition of a new subsection (d) to 3 AAC 53.670b requires renumbering of the
former subsection (d) to subsection (e).

1 title of this Docket is amended to more accurately reflect the issues under consideration
2 in this proceeding; i.e., the adoption of PIPT regulations.

3 By subsequent order in this proceeding, we will initiate the process under
4 3 AAC 53.750 of designating the PIPTs to be funded by the AUSF in 2001 and clarify
5 what supplemental or additional information is needed from the ILECs.

6 As a final matter, following the close of the Public Meeting, *supra*, several
7 of the ILEC representatives orally queried of Staff whether 3 AAC 53.775(a)¹⁵ means
8 that a coin telephone must be installed regardless of whether the costs of collecting
9 coins from such phone outweighs the revenues collected. The answer is no. If an ILEC
10 believes that a installation of a coinless telephone is more economic than a coin
11 telephone, that ILEC should provide data in support of using a coinless telephone when
12 it makes its annual filing for AUSF support for its PIPTs.

13 **ORDER**

14 THE COMMISSION FURTHER ORDERS:

15 1. The regulations governing the provision of public interest pay
16 telephone service are adopted as amended and set out in Appendix B to this Order.
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¹⁵Formerly proposed as 3 AAC 53.780(a), this subsection reads:

24 (a) A public interest pay telephone provider shall install a public
25 interest pay telephone capable of accepting coin calls unless the
26 commission determines that the public interest requires the installation of a
coinless pay telephone.

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2. The title of this Docket is amended to read: *In the Matter of the Consideration of the Impact of Rules of the Federal Communications Commission on the Regulations at 3 AAC 53.800 - 3 AAC 53.899 Governing the Provision of Privately Owned Pay Telephone Service and the Adoption of Regulations To Govern the Provision of Public Interest Pay Telephone Service at 3 AAC 53.740 – 3 AAC 53.799.*

DATED AND EFFECTIVE at Anchorage, Alaska, this 23rd day of October, 2000.

BY DIRECTION OF THE COMMISSION

(S E A L)

THE APPENDIX "A" REFERRED TO IN THIS ORDER IS NOT
AVAILABLE IN ELECTRONIC FORM. CONTACT THE RCA
RECORDS AND FILING SECTION FOR A HARD COPY OF THIS
DOCUMENT.

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3 AAC 52.240 is repealed:¹

3 AAC 52.240. PUBLIC PAY TELEPHONE SERVICE. Repealed. (Eff. 1/5/79, Register 69; repealed ___/___/_____, Register ___)

3 AAC 53.350(a) and (d) are amended and a new subsection (e) added to read:

3 AAC 53.350. DISBURSEMENTS OF THE AUSF. (a) The administrator shall disburse on a monthly basis money approved by the commission from the AUSF for universal service support eligible in the current month for

- (1) dial equipment minute (DEM) weighting; [AND]
- (2) lifeline program; and
- (3) public interest pay telephones.

...

(d) In the case of a shortage in the AUSF in a particular month, the administrator shall disburse the AUSF in the following order of priority:

- (1) administrative costs;

¹In legislative drafting format, words underlined are being added to the current text; words typed in capital letters and enclosed in brackets are being deleted. When new sections are being added, however, they use only a lead-in line to identify that the material is new and are not underlined. A repealed section or subsection simply uses a repeal notation.

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(2) universal service support eligible in a prior month but not paid in that month;

(3) universal service support eligible in a current month for lifeline program;

(4) universal service support eligible in a current month for dial equipment (DEM) weighting; and

(5) universal service support eligible in a current month for public interest pay telephones.

(e) Funds for public interest pay telephones must be disbursed as provided for in

3 AAC 53.760. (Eff. 1/10/99, Register 149, am ___/___/____, Register ___)

Authority:	AS 42.05.141	AS 42.05.431	AS 42.05.840
	AS 42.05.145	AS 42.05.711	
	AS 42.05.151	AS 42.05.800	

Publisher: Renumber existing Articles 7 and 8 as Articles 8 and 9 in 3 AAC 53. Insert the following for the new Article 7: “7. Public Interest Pay Telephone Service (3 AAC 53.740 – 3 AAC 53.799)”

3 AAC 53 is amended by adding new sections to read:

Article 7. PUBLIC INTEREST PAY TELEPHONE SERVICE

740. Applicability, purpose, and waiver

745. Criteria for designation of a public interest pay telephone

750. Designation of public interest pay telephones

755. Assignment of public interest pay telephones

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- 760. Funding for public interest pay telephones
- 765. Service requirements
- 770. Maximum charge for a public interest pay telephone
- 775. Miscellaneous provisions
- 799. Definitions

3 AAC 53.740. APPLICABILITY, PURPOSE, AND WAIVER. (a) The provisions of 3 AAC 53.740 - 3 AAC 53.799 apply to public interest pay telephone service.

(b) The purpose of 3 AAC 53.740 - 3 AAC 53.799 is to establish and provide for the designation, apportionment, and funding of public interest pay telephones.

(c) Unless otherwise required under AS 42.05, a requirement in 3 AAC 53.740 – 3 AAC 53.799 may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion under 3 AAC 48.805. (Eff. ___/___/____, Register ___)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.745. CRITERIA FOR DESIGNATION OF A PUBLIC INTEREST PAY TELEPHONE. (a) A public interest pay telephone is one that

- (1) fulfills a public policy objective in health, safety or public welfare;

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(2) is not provided for a location provider with an existing contract for the provision of a pay telephone; and

(3) would not otherwise exist as a result of the operation of the competitive marketplace.

(b) The commission will, in its discretion, designate one or more public interest pay telephones in each exchange in which a pay telephone would not otherwise be available to the public. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.750. DESIGNATION OF PUBLIC INTEREST PAY TELEPHONES. (a)

After the effective date of these regulations, the commission will, by order, designate an initial list of public interest pay telephones under the procedures set out in (b) through (e) of this section.

(b) After the effective date of these regulations, the commission will establish a deadline for the submission of requests for the establishment of public interest pay telephones that meet the criteria for that designation as set out in 3 AAC 53.745. A request must indicate the exchange and the physical address or location for each public interest pay telephone. A request to designate an existing pay telephone as a public interest pay telephone must include sufficient cost and revenue information for the commission to determine the profitability of the pay telephone.

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(c) After the deadline for the submission of requests under (b) of this section, the commission will review the requests for designation of public interest pay telephones for compliance with the criteria set out at 3 AAC 53.745 and will identify its recommended additions or deletions.

(d) Following the completion of the procedures set out in (c) of this section, the commission will issue a preliminary decision list of proposed public interest pay telephones. The commission will provide public notice of its preliminary decision list and serve the list on all certificated telecommunications carriers in Alaska including private pay telephone service providers. The commission will invite the public to comment on the completeness and accuracy of the preliminary designation of public interest pay telephones. A certificated private pay telephone service provider may indicate which, if any, locations on the list it is willing to serve in its service area without support. The commission will establish a deadline for the submission of comments.

(e) After the deadline established under (d) of this section, the commission will issue a final list of public interest pay telephones by exchange and physical address or location of each public interest pay telephone .

(f) The commission will, in its discretion, consider amendments and modifications to the final list of public interest pay telephones designated under (e) of this section upon its own motion or upon petition by an affected person. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840

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AS 42.05.291 AS 42.05.800

3 AAC 53.755. ASSIGNMENT OF PUBLIC INTEREST PAY TELEPHONES.

After designation of the final list of public interest pay telephones under 3 AAC 53.750(e), the commission will assign the public interest pay telephone or telephones for a given exchange to the incumbent local exchange carrier serving that exchange. (Eff. ___/___/____, Register ___)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.760. FUNDING FOR PUBLIC INTEREST PAY TELEPHONES. (a)

Financial support required for a public interest pay telephone is funded from disbursements of the Alaska Universal Service Fund (AUSF).

(b) An incumbent local exchange carrier assigned public interest pay telephone responsibility will receive monthly compensation from the AUSF for each public interest pay telephone based on the actual net cost of providing the service.

(c) Actual net cost is equal to allowable costs less all revenues received from the public interest pay telephone including revenues imputed by the commission. Allowable costs include a reasonable allocation of operating expenses, depreciation, taxes, and a reasonable return on invested capital, subject to annual commission review. Location rental is not an allowable cost unless specifically authorized by the commission.

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(d) The process for annual review of the funding requirements for public interest pay telephones will be established by order of the commission.

(e) An incumbent local exchange carrier providing public interest pay telephone service shall make a reasonable attempt to obtain revenues from available sources including federal dial-around compensation, local coin calls, and aggregator commissions from long distance carriers. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.765. SERVICE REQUIREMENTS. (a) An incumbent local exchange carrier that has been assigned public interest pay telephone responsibility shall maintain and serve the public interest pay telephones in accordance with 3 AAC 53.820 – 3 AAC 53.899 and any other applicable commission regulations.

(b) An incumbent local exchange carrier that has been assigned public interest pay telephone responsibility may not abandon service without prior approval of the commission.

(Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.770. MAXIMUM CHARGE FOR A PUBLIC INTEREST PAY TELEPHONE. The charge for a local call from a public interest pay telephone may not

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exceed 25 cents per call. The charge for a long distance call may not exceed the charges of the dominant long distance carrier defined at 3 AAC 52.399. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.775. MISCELLANEOUS PROVISIONS. (a) A public interest pay telephone provider shall install a public interest pay telephone capable of accepting coin calls unless the commission determines that the public interest requires the installation of a coinless pay telephone.

(b) A coinless public interest pay telephone must provide free local calling.

(c) To the extent possible, the public interest pay telephone must be located on public or utility property. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	

3 AAC 53.799. DEFINITIONS. (a) Unless the context indicates otherwise, in 3 AAC 53.740 - 3 AAC 53.799, the following terms have the following meanings:

(1) Allocation provider \cong means the owner of premises on which a public interest pay telephone is located or, for leased premises, the lessee, unless otherwise provided in the lease; and

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(2) Acoinless pay telephone means a pay telephone that accepts 1-800 subscriber calls or access card calls.

(b) Terms used in 3 AAC 53.740 – 3 AAC 53.799 that are not defined in this section have the meanings given in 3 AAC 48.820, 3 AAC 52.340, 3 AAC 52.399, and 3 AAC 53.899. (Eff. __/__/____, Register __)

Authority:	AS 42.05.141	AS 42.05.311	AS 42.05.810
	AS 42.05.151	AS 42.05.321	AS 42.05.840
	AS 42.05.291	AS 42.05.800	