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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 Rules)
Governing the Provision of Telecommunications) R-97-8¹
Relay Service in Alaska)
ORDER NO. 7

ORDER RE-ADOPTING AMENDED REGULATIONS

BY THE COMMISSION:

This Docket was opened to inquire into the methodology for regulating telecommunications relay service (TRS) in Alaska. By Order R-97-8(4), dated March 15, 1999 (Order No. 4), the Alaska Public Utilities Commission (APUC)² amended TRS regulations (3 AAC 51.010 – 3 AAC 51.199) to change the process by which a TRS provider is selected and provides services. We now adopt the TRS regulations adopted and amended³ by the APUC, with amendments to reflect recent changes by the Federal Communications Commission (FCC).

Background

The TRS regulations sent to the Department of Law (DOL) for review by the APUC were not approved. During its review of the amended regulations, DOL concluded that the original notice of the regulations was stale. DOL required the RCA to issue supplemental notice of the regulations. DOL also required that this

¹Department of Law File No. 993-99-0070.
² APUC is the predecessor to the Regulatory Commission of Alaska (RCA).
³See Order R-97-8(5), dated May 27, 1999 (Order No. 5).

1 Commission review the regulations and re-adopt them because the APUC was
2 abolished and replaced by this Commission on July 1, 1999.

3 At our Public Meeting of October 6, 1999, we issued the TRS regulations
4 that had been adopted by the APUC for further comment. (See Order R-97-8(6).) Only
5 GCI Communication Corp. d/b/a General Communication, Inc., and d/b/a GCI (GCI)
6 filed comments on the renoticed regulations.

7 In its comments,⁴ GCI clarified its position as the current TRS provider and
8 also refuted several comments that were made at our Public Meeting of October 6,
9 1999, concerning GCI's quality of service as the TRS provider. GCI also addressed the
10 technology it had implemented to improve the quality of its TRS service. GCI stated
11 that it would further address issues regarding its service quality at the hearing to select
12 a new TRS provider.

13 Discussion

14 Our regulation of TRS is subject to review and approval by the FCC. On
15 February 17, 2000, the FCC issued its *Report and Order*⁵ adopting amendments to
16 47 C.F.R. §§ 64.601 – 64.605, to become effective thirty days after publication in the
17 Federal Register. Our proposed TRS regulations must comply with the new federal
18 requirements for Alaska's TRS program to be certified by the FCC. Thus, we amended
19 the TRS regulations to require the TRS provider to comply with the operational,
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22 ⁴Filed February 4, 2000.

23 ⁵CC Docket No. 98-67, *Report and Order and Further Notice of Proposed*
24 *Rulemaking*, FCC 00-56 (FCC TRS Order). The FCC stated that its rules were
25 amended to better conform to the statutory mandate (47 U.S.C. § 225) that TRS must
26 be "functionally equivalent" to voice telecommunications service to the extent possible
and to improve call-answering and conversation-relay speeds. That statute defines
TRS as "a telephone transmission service that provides the ability for an individual with
a hearing or speech disability to engage in communication by wire or radio with a
hearing individual in a manner functionally equivalent to someone without such a
disability."

1 technical, and functional minimum standards for TRS adopted by the FCC at
2 47 C.F.R. §§ 64.604.⁶

3 The first discussion of the re-adoption of the amended TRS regulations
4 was at the Public Meeting of May 17, 2000. Commission Staff (Staff) then advised that
5 the FCC regulations had not yet been published in the Federal Register and, thus, were
6 not yet effective. We deferred adopting these regulations until after the FCC's TRS
7 rules became effective.

8 At that meeting, Staff also advised that in view of the adoption in
9 3 AAC 51.030 of the new FCC standards, revisions to that section and the definition
10 section (3 AAC 51.199) were necessary.⁷ We agreed.

12 ⁶When an agency adopts regulations material by reference, the regulations must
13 clearly state that a particular dated version of the material is being adopted by
14 reference. As noted above, the effective date of the FCC's TRS regulations was
controlled by publication in the Federal Register.

15 ⁷The FCC changed the speed-of-answer standard (47 C.F.R. § 64.604(b)(2)) and
16 added a blocking standard. Those changes require proposed 3 AAC 51.030(a)(3) to be
17 modified as it reflected only the former speed-of-answer standard. The FCC also added
18 new services that were not included in the listing in proposed 3 AAC 51.030(a)(2).
Since the FCC's TRS rules are being adopted and they are clear as to the types of
calls included in TRS service, it is unnecessary for this Commission's TRS regulations
to list types of calls. Accordingly, 3 AAC 51.030(a)(2) is modified to delete the type-of-
call listing. As amended, 3 AAC 51.030(a)(2) and (3) read:

19 (2) the number of calls processed. The report must specify TRS
20 traffic by number of calls and minutes of use. Each category must be
21 further disaggregated by jurisdiction (local, intrastate toll, interstate toll)
and by type of call [(VOICE ORIGINATED, TTY ORIGINATED, HEARING
CARRY-OVER, VOICE CARRY-OVER)]; and

22 (3) quality of service being offered to customers. The report must
23 show conformance with federal speed-of-answer and call-blocking
24 standards contained in 47 C.F.R. 64.604(b)(2) [SPECIFY THE NUMBER
AND PERCENTAGE OF CALLS ANSWERED WITHIN 10 SECONDS
FOR EACH DAY OF THE MONTH].

25 The material underlined is being added; and the material set out in
brackets and capitalized is deleted.

26 Since the only reference to the terms "voice originated," "TTY
originated," "hearing carry-over," and "voice carry-over" had been in
3 AAC 51.030(a)(2), definition of those terms was unnecessary. Thus,
3 AAC 51.199 was amended to delete the FCC's definitions.

1 On June 21, 2000, the FCC's final TRS rules were published in the
2 Federal Register.⁸ According to the FCC's rulings, § 64.604 was effective June 30,
3 2000, although compliance is not required until the dates stated in that section. The
4 remaining sections are effective on December 18, 2000, except for §§ 64.604(b)(2),
5 64.604(c)(1), 64.604(c)(5)(i), and 64.605(f) which contain information collection
6 requirements that have not been approved by the Federal Office of Management and
7 Budget. The FCC will publish a document in the Federal Register announcing the
8 effective date of those sections.

9 The second discussion of the TRS regulations was at the Public Meeting
10 on July 5, 2000. We re-adopted those regulations, as amended, with the technical
11 changes proposed by Staff (See n. 5) and to reflect the effective date of the FCC's TRS
12 rules adopted by reference; i.e., June 30, 2000. A copy of the TRS regulations, as
13 amended and re-adopted, is attached to this Order as Appendix B.

14 We recognize that the FCC's TRS regulations will need further
15 amendment to reflect the requirements in the FCC's final TRS rules, particularly
16 § 64.604(b)(2), that take effect later this year or as announced in the Federal Register.
17 While further amendment will be necessary, adoption of the proposed regulations now
18 allows the new competitive-bid process to go forward. That is the result that both TRS
19 users and the telecommunications industry desire.

20 Finally, we determined that if a new TRS provider is selected from the
21 competitive-bid process, GCI would be required to continue providing TRS service, as
22 provided for under 3 AAC 51.020(c). GCI will not be required to install new plant or
23 equipment to comply with speech-to-speech, call-blocking, speed-of-answering, or other
24 technical functions during such interim period. This waiver of compliance with the new
25 TRS regulations may be revisited if it will be effective for more than one year. If GCI is

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⁸ A copy of the FCC's final rules is attached to this Order as Appendix A.

1 selected as the TRS provider through the competitive-bid process, GCI will be required
2 to comply with all the provisions of these newly adopted regulations.

3
4 **ORDER**

5 THE COMMISSION FURTHER ORDERS, That, as more fully discussed
6 in the body of this Order, the Telecommunications Relay Service regulations, adopted
7 by the Alaska Public Utilities Commission on May 27, 1999, are re-adopted, as
8 amended, and set out in Appendix B to this Order.

9 DATED AND EFFECTIVE at Anchorage, Alaska, this 15th day of September, 2000.

10 BY DIRECTION OF THE COMMISSION

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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 51.010(b) is amended to read:

(b) The provision of telecommunications relay service (TRS) in accordance with 3 AAC 51.010 – 3 AAC 51.199 is required by the public convenience and necessity to meet the needs of deaf, hard-of-hearing, speech-impaired, and all other subscribers in communicating with each other.

(Eff. 12/2/92, Register 124; am __/__/__, Register ____)

Authority:	AS 42.05.141	AS 42.05.296	AS 42.05.321
	AS 42.05.151(a)	AS 42.05.311	AS 42.05.711(d)

Publisher: The repeal and re-adoption of 3 AAC 51.020 - 3 AAC 51.199 require modification to the section listing for this chapter.

3 AAC 51.020 – 3 AAC 51.199 are repealed and readopted to read:

3 AAC 51.020. SELECTION OF TELECOMMUNICATIONS RELAY SERVICE

PROVIDER. (a) Within 90 days after the effective date of these regulations, the commission will issue an order requesting applications for the provision of TRS for Alaska.

(b) If more than one entity applies to provide TRS service in Alaska, the commission will hold a public hearing to afford an opportunity for examination of the applications on a comparative basis. In accordance with (e) and (f) of this section, the commission will determine which applicant is most fit, willing, and able to provide TRS in Alaska.

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(c) If no applications are received or if the commission determines that none of the applicants is fit, willing, and able to provide the service, the existing certificated provider shall continue to provide service under the terms and conditions of its effective tariff. If no applications are received, the commission will issue another request for applications every twelve months unless good cause indicates otherwise. A provider required to serve beyond its initial term of service as provided for in this section is exempt from the requirements of 3 AAC 48.275(a) but is required to provide reasonable justification for any proposed change to its monthly revenue requirement.

(d) The commission will issue a certificate of public convenience and necessity to a TRS provider selected under the provisions of 3 AAC 51.010 - 3 AAC 51.199 for a period of at least five years.

(e) In addition to any other requirements specified in the commission's request for applications to provide TRS, an applicant shall demonstrate

(1) the ability to meet or exceed federal requirements concerning all operational, technical, and functional minimum standards for TRS contained in 47 C.F.R. 64.604, as revised June 30, 2000; and

(2) that it has procedures to

(A) solicit input from users of the service and carriers whose customers use TRS;

(B) fairly and expeditiously resolve customer complaints;

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(C) develop and implement community outreach and education services and programs; and

(D) provide for TTY equipment distribution to customers.

(f) In reviewing applications, the commission will rank applicants using the following weighting criteria:

(1) price for basic TRS expressed in dollars and cents per billable minute (40 percent);

(2) quality of service, which includes the requirements set out in (e) of this section (40 percent); and

(3) availability of, and price for, optional services and ability to meet or exceed any other criteria specified in the request for applications (20 percent).

(g) The commission reserves the right to reject all applications and renounce the application process if there is no applicant that, in the commission's discretion, can provide quality service at just and reasonable rates. (Eff. 12/2/92, Register 124, am __/__/__, Register __)

Authority: AS 42.05.141 AS 42.05.221
AS 42.05.151(a) AS 42.05.296

3 AAC 51.030. REQUIREMENTS OF TELECOMMUNICATIONS RELAY SERVICE PROVIDER. (a) Following the award of a certificate of public convenience and necessity to provide TRS in Alaska, the provider shall file a tariff that incorporates

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the terms and conditions specified in its application. The provider is obligated to serve in conformance with its tariff until service expires under the terms of the certificate or until the commission decides otherwise. Additionally, the TRS provider shall file with the commission a monthly report that includes information concerning

(1) the number of access lines, surcharges, and revenue collected. The report must include a compilation of the access line and surcharge revenue information supplied to the TRS provider by local exchange carriers under 3 AAC 51.040(k)(1). The report must also specify the surplus revenue account balance;

(2) the number of calls processed. The report must specify TRS traffic by number of calls and minutes of use. Each category must be further disaggregated by jurisdiction (local, intrastate toll, interstate toll) and type of call; and

(3) quality of service being offered to customers. The report must show conformance with federal speed-of-answer and call-blocking standards contained in 47 C.F.R. 64.604(b)(2) as revised June 30, 2000.

(b) The TRS provider is required to enter an escrow arrangement or post a bond with the commission sufficient to secure performance of the services set out in the provider's application. In its request for applications, the commission will establish the terms and amount of the escrow or bond. (Eff. 12/2/92, Register 124; am __/__/__, Register __)

Authority: AS 42.05.141 AS 42.05.151(a) AS 42.05.296

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3 AAC 51.040. FUNDING OF TELECOMMUNICATIONS RELAY SERVICE.

(a) The commission will establish a surcharge by order and will include consideration of

(1) the monthly revenue requirement of the TRS provider;

(2) the estimated number of residential, single-line business, and multi-line business lines of local exchange carriers; and

(3) any amounts held by the TRS provider in the surplus revenue account.

(b) The commission will set an inception surcharge by order. Thereafter, the commission will modify the surcharge whenever necessary to avoid insufficient or excessive funds in the surplus revenue account.

(c) After the commission has determined the surcharge, each local exchange carrier shall submit to the commission a compliance tariff filing that includes the TRS surcharge using the procedures set out in 3 AAC 48.270.

(d) The surcharge must be a two-tier rate with one tier consisting of residential and single-line business subscribers and the other tier consisting of multi-line business subscribers.

(e) The surcharge must be listed as a separate line item on bills for service and be entitled "Universal Access Surcharge."

(f) The surcharge must be collected for each access line from subscribers of local exchange service.

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(g) The TRS provider shall retain as compensation for services an amount equal to its authorized monthly revenue requirement.

(h) If the TRS provider collects an amount in excess of its monthly revenue requirement, the TRS provider shall hold that excess amount in a low-risk interest bearing account called the surplus revenue account.

(i) The TRS provider may draw from the surplus revenue account in any month in which there is an underrecovery of surcharge revenue. An underrecovery means that the total surcharge collections from local exchange carriers for a given month is less than the TRS provider's revenue requirement for that month. The amount drawn from the surplus revenue account may not exceed the amount of the underrecovery. The amount of the underrecovery is calculated as follows:

$$\text{UNDERRECOVERY} = \text{MONTHLY REVENUE REQUIREMENT} - \text{MONTHLY SURCHARGE COLLECTION}$$

(j) If there are insufficient funds in the surplus revenue account to cover the underrecovery in a given month, the TRS provider may assess an interest charge on the unrecovered amount. The interest charge is assessable at the rate of .0287 percent per day and collectible by the TRS provider in the next month in which sufficient funds are available.

(k) Each local exchange carrier shall disburse surcharge collections on a monthly basis to the provider of TRS in the following manner:

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(1) By the 10th calendar day of each month or the next working day if the 10th falls on a Saturday, Sunday, or bank holiday, each local exchange carrier shall pay to the TRS provider surcharge revenues collected from telephone subscribers. Each local exchange carrier shall send the payment along with the report showing the number of residential lines, single-line business lines, and multi-line business lines to which a surcharge was assessed. The report must also include the number of uncollectible surcharges and the amount collected from previous months' uncollectible surcharges, separated by each month.

(2) Payment is delinquent if it is not made by the 10th calendar day of each month. Payment must be made by wire transfer or Electronic Funds Transfer directly to the TRS provider's bank account.

(3) If electronic funds transfer is not technically feasible, payment must be made by check with immediately available funds and mailed before the due date.

(4) If payment is not received in immediately available funds on or before the due date, the TRS provider may assess a finance charge. The tariffed interest rate may not exceed the rate set by AS 45.45.010(a). A single late charge may be imposed when the account first becomes past due. Charges for late payment must be deposited directly to the surplus revenue account unless there are insufficient funds to cover the TRS provider's monthly revenue requirement.

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(f) Any amount remaining in the surplus revenue account at the termination of a TRS provider's contract must be transferred within 30 days to the succeeding TRS provider. (Eff. 12/2/92, Register 124, am __/__/__, Register ____)

Authority: AS 42.05.141 AS 42.05.296 AS 42.05.321
AS 42.05.151(a) AS 42.05.311

3 AAC 51.199. DEFINITIONS. (a) Unless the context indicates otherwise, in 3 AAC 51.010 - 3 AAC 51.199

(1) "basic TRS" means the minimum operational, technical, and functional standards, and the services and programs required by 3 AAC 51.020(d);

(2) "billable minute" or "billable minute of use" means the time period measured in minutes beginning from the point when a communication assistant connects to an incoming relay call until the moment the communication assistant disconnects from the last party to the call. Billable minutes also include incomplete calls (busy, no answer, wrong number) that do not reach the intended party, but does not include the time in queue (*i.e.*, the incoming call is ringing, waiting for the call to connect to the communication assistant);

(3) "immediately available funds" means a corporate or personal check drawn on a bank account for which funds are available for use by the receiving party on the same day on which they are received and include U.S. Federal Reserve Bank wire

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transfers, U.S. Federal Reserve notes (paper cash), U.S. coins and U.S. Postal Money Orders;

(4) "monthly revenue requirement" is the product of the number of billable minutes of use for a given month times the TRS provider's billable minute-of-use rate as specified in its application to provide TRS;

(5) "multi-line business subscriber" means a business subscriber that maintains more than one business telephone line from a local exchange carrier within the subscriber's serving area;

(6) "optional services" means any TRS service that is not included in basic TRS;

(7) "single-line business subscriber" means a business subscriber that maintains only one business telephone line from a local exchange carrier within the subscriber's serving area;

(8) "surcharge" means the rate set by the commission to recover an estimated monthly revenue requirement of the TRS provider;

(9) "telecommunications relay services" or "TRS" means telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, or speech impaired to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who is not deaf, hard or hearing or speech impaired to communicate using voice

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communication services by wire or radio. This term includes services that enable two-way communication between an individual who uses a TTY or other nonvoice terminal device and an individual who does not use such a device; and

(10) "TTY" means a machine that employs graphic communication in the transmission of coded signals through a wire or radio communications system. (Eff. 12/2/92, Register ____, am __/__/__, Register ____)

Authority: AS 42.05.141 AS 42.05.151(a) AS 42.05.296