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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

In the Matter of the Consideration of Reform of)
Intrastate Interexchange Access Charge Rules)
ORDER NO. 13

R-01-1

ORDER ADOPTING REGULATIONS

BY THE COMMISSION:

Summary

We adopt revisions to our regulations governing intrastate interexchange access charges. Primary among the adopted changes is a network access fee (NAF) set at \$1.50 per line per month beginning April 1, 2005, rising to \$3.00 per line per month beginning April 1, 2007.

Background

We opened this Docket in April 2001 and focused on whether we should change our rules defining how costs incurred by local exchange carriers (LECs) in operating their networks should be recovered. Under our present rules, a LEC collects revenue for its local network from a variety of customers, including local customers and

1 long distance companies (also called interexchange carriers, or IXCs).¹ Revenue
2 received from long distance companies is known as access charge revenue. Interstate
3 access charge rates are not subject to our jurisdiction but are governed by the Federal
4 Communications Commission (FCC). The FCC first adopted its access charge system
5 approximately two decades ago. We adopted a similar system on the intrastate side in
6 the early 1990s. A fundamental difference between the two systems, however, was that
7 a portion of interstate access charge costs associated with local loop facilities² was
8 directly charged to the end-user in the form of a subscriber line charge (SLC).³ We did
9 not adopt a SLC when we first adopted access charges. Instead, we required LECs to
10 recover these costs entirely from intrastate IXCs. The issue was first framed in Order
11 R-01-1(1).⁴

12 After we issued Order R-01-1(1), the FCC changed the federal access
13 charge regime through its CALLS and MAG Orders.⁵ These Orders furthered the

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15 ¹This cost recovery structure is further separated into interstate and intrastate
16 calls. Our jurisdiction is only for intrastate calls.

17 ²The local loop is the portion of the local network that connects an end-user to
18 the local exchange company's switch or wire center. It is typically the most expensive
19 portion of the local network. The local loop portion of total switched intrastate access
20 charges is about \$40 million, or approximately 75-80 percent of the total.

21 ³The SLC began as a one dollar charge in 1985 and grew to \$3.50 per line per
22 month in the late 1980s.

23 ⁴*Order Issuing Notice of Inquiry and Establishing Schedule for Public Comments*
24 *and Hearing*, dated April 11, 2001. This Order explains the current access charge
25 regime.

26 ⁵Access Charge Reform, Price Cap Performance Review for Local
Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on
Universal Service, CC Docket No. 96-262 et al., Sixth Report and Order in CC Docket
Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report
and Order in CC Docket No. 96-45, FCC 00-193 (May 31, 2000) (the "CALLS Order").

Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-
Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second
(continued . . .)

1 federal regulatory paradigm by shifting even more of the interstate access charges from
2 IXCs to end-users and the interstate universal service fund (USF). As a result,
3 interstate access rates charged to IXCs are now less than 1.5 cents per minute⁶
4 compared to about 14 cents per minute for intrastate IXCs.

5 FCC action has significantly lowered the costs of interstate long distance
6 calls and resulted in an increase in LEC customer bills, through the addition of a SLC.
7 The FCC explained the reason for this action in its MAG Order.

8 The Commission has long recognized that, to the extent possible,
9 interstate access costs should be recovered in the manner in which they
10 are incurred. In particular, non-traffic sensitive costs – costs that do not
11 vary with the amount of traffic carried over the facilities – should be
12 recovered through fixed, flat charges and traffic sensitive costs should be
13 recovered through per-minute charges. This approach fosters competition
14 and efficient pricing.⁷

15 The FCC set out other relevant decisions not related to the lowering of
16 long distance charges to customers in its CALLS Order, MAG Order, and other relevant
17 decisions. The FCC stated in its MAG Order that,⁸

18 bringing the common line rate structure into line with cost-causation
19 principles and phasing out implicit subsidies will promote the public
20 welfare by encouraging investment and efficient competition, while
21 establishing a secure structure for achieving the universal service goals
22 established by law. . . .⁹

23 With these recent federal actions, there is now even more disparity
24 between our access charge rules and recently revised current federal rules. In this

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26 (. . . continued)
27 Report and Order and Further Notice Proposed Rulemaking In CC Docket No. 00-256,
28 Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC
29 Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001) (MAG Order).

30 ⁶*Trends in Telephone Service*, FCC, May 2004, at I-6.

31 ⁷MAG Order, para. 17.

32 ⁸MAG Order, n. 152.

33 ⁹MAG Order, para. 17.

1 proceeding, we sought to create a record to resolve this disparity, and to develop our
2 own reformation of Alaska access charges. To begin this proceeding, we requested
3 data on the distribution of customers making intrastate long distance calls. We also
4 held workshops with industry to explore methods to measure pass-through¹⁰ savings.¹¹
5 Participants agreed on a method to calculate the pass-through and filed a Joint Report
6 with their recommendations to us.¹²

7 The Commission Staff (Staff) created a spreadsheet model to estimate the
8 quantitative impacts of recovering carrier common line (CCL) (i.e., local loop) costs in
9 the LEC customer bills, as opposed to continuing to recover access charges from long
10 distance carriers.¹³ We issued draft regulations, based on our review of comments
11 received in response to Order R-01-1(1), that proposed a complete phase-out of the
12 non-traffic sensitive access charges (CCL charges), instituted a network access fee
13 (NAF) that would be paid by LEC customers, and placed a cap on the NAF. We also
14 incorporated a mechanism where LECs would be compensated through the Alaska
15 Universal Services Fund (AUSF) recovery of the fee by LECs.

16 At our June 2, 2004, meeting, we extended the statutory timeline until
17 September 28, 2004. Also during the meeting, we discussed alternate regulations that
18 we developed after reviewing comments. In Order R-01-1(12),¹⁴ we issued proposed

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20 ¹⁰The term “pass-through” has been used in this proceeding to mean the transfer
21 of the monetary benefit gained by IXCs through reduction of access charges to IXC
22 ratepayers in the form of reduced rates.

23 ¹¹Order R-01-1(5), *Order Scheduling a Workshop To Explore Methods To*
24 *Measure Pass-Through Savings, and Requiring Report*, dated October 19, 2001.

25 ¹²*Joint Pass-Through Report*, dated December 13, 2001.

26 ¹³Order R-01-1(6), *Order Issuing Staff Model for Comment*, dated November 5,
2003.

¹⁴*Order Issuing Regulations for Comment*, dated July 20, 2004.

1 regulations instituting a limited phase out of CCL access charges and eliminated use of
2 the AUSF fund to cap local rates. We received extensive comments in this proceeding
3 and we held a public hearing on the matter on September 13, 2004.

4 Discussion

5 After consideration of the record in this Docket, we adopt new regulations
6 that, in a measured way, undertake the process of access charge reform. While we
7 maintain the current market structure, we reduce the non-traffic sensitive costs that
8 IXCs must pay in access charges. We regard this as an incremental step toward
9 changing the access market structure. The potential elimination of access charges is a
10 matter that will depend on possible near- or mid-term federal action. Our action is a
11 prudent step toward reforming the older, no longer rational, cost recovery structures for
12 local exchange carrier revenue requirements.

13 Just as the FCC first did two decades ago, we now move to institute an
14 Alaska SLC, but we term it a NAF to differentiate it from the federal interstate fee. This
15 will transfer a portion of CCL access charges¹⁵ which IXCs now pay to the local
16 exchange customers, and will result in an increase in the local exchange phone bills.
17 We expect this cost transfer to produce a combination of long distance rate reductions
18 and improved long distance infrastructure investments, enabled by competitive forces
19 rather than regulatory requirements. As a part of this Order, we require IXCs to

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21 ¹⁵We often refer to a composite average access charge expressed in cents per
22 minute of use, but a number of intrastate access charge rate elements contribute to the
23 different parts of the local network. For example, a "local switching" access charge,
24 expressed in cents per minute, is charged for use of a local switch. Transport charges
25 are used for connecting an IXC to a LEC switch or for transport between LEC switches.
26 For an IXC, the most significant access charge, the CCL charge, is used for circuits and
related facilities connecting an end-user customer to the local exchange switch. In
Alaska, the CCL is currently about 5 cents per minute. The statewide average
(continued . . .)

1 maintain adequate records for us to assess the effects on the long distance rates.
2 However, given the record before us and known difficulties in computing what is known
3 as pass-through amounts, we will not be able to exactly determine whether the benefit
4 gained by long distance customers through competitive rate reductions will balance with
5 the benefit lost as local exchange customers absorb more of the costs of service.

6 Our records reveal that the IXC market is decreasing, and that the costs of
7 long distance phone calls in Alaska are unreasonably high, with a primary reason being
8 the very high access charges IXC companies must pay. We have considered the
9 impact of these rates on long distance customers as well as local exchange customers.

10 Our actions will implement a line item rate increase to local exchange
11 customers in Alaska and provide opportunities for competitive IXCs to reduce long
12 distance rates. We do not require a direct pass-through to ratepayers, since the record
13 before us demonstrates no equitable way to precisely match increased local subscriber
14 loop charges with long distance rate reduction. We do, however, establish adequate
15 recordkeeping to investigate this market restructuring should we have evidence that
16 ratepayers are unreasonably affected.

17 In the following sections, we explain specific contested elements of this
18 Order.

19 Network Access Fee

20 The initial decision we face in this proceeding is whether to restructure our
21 current access charge rates by adopting a new access charge rate element called a
22 NAF. Since its initial adoption in the early 1980's, the residential SLC has grown from
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(. . . continued)

25 composite switched access charge rate in 2003 was in the neighborhood of 14 cents
26 per minute for both ends of a long distance call.

1 \$1 to \$6.50 and the interstate CCL charge has declined from 5.24 cents per minute to
2 virtually zero.¹⁶

3 We have not previously adopted the FCC's method for recovery of local
4 loop costs. Consequently, our intrastate long distance rates are much higher than
5 interstate rates, creating inequities for in-state long distance providers who must
6 compete against a growing list of alternative long distance providers, such as wireless
7 carriers, Internet providers, and voice over Internet providers.¹⁷ These alternative
8 providers often use the same local loops as IXCs but are exempt under federal rules
9 from paying the same loop-related access charges. IXC revenue and market share
10 continues to diminish. For example, between 2000 and 2003, while intrastate wireless
11 revenues grew from \$103 million to \$150 million, intrastate IXC switched revenues
12 declined from \$73 million to \$46 million. If IXC revenues continue to decline and the
13 loop cost of \$40 million currently assessed to intrastate IXCs continues to increase, loop
14 costs could eventually exceed the IXCs intrastate interexchange revenues. This is not a
15 trend that we can ignore.
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18 Under the doctrine of federal preemption, we are not permitted to directly
19 charge wireless and Internet providers for their use of the same local loop facilities for
20 which IXCs must pay. As a result, the only way to fairly treat each group that uses the
21 local loop is to reduce the CCL rate. This will involve modifying our access charge cost
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23 ¹⁶FCC, *Trends in Telephone Service*, August 2003.

24 ¹⁷In addition to alternative providers, Alaska IXCs compete against IXCs that
25 disguise intrastate traffic as interstate in order to avoid the higher intrastate access
26 charges.

1 recovery method to closely match the federal method. The NAF is our version of the
2 federal SLC.

3 The initial NAF, \$1.50 beginning April 1, 2005, is modest compared to the
4 current interstate SLC (\$6.50 residential, \$9.20 business) and will recover less than 25
5 percent of the LECs' intrastate CCL revenue requirement. After increasing to \$3.00 in
6 April 2007, the NAF will still generate less than 50 percent of LEC's intrastate
7 interexchange common revenue requirement; however, we believe this constitutes a
8 reasonable start toward fixing an antiquated system and represents reasonable
9 progress toward future reform.

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11 Pass-through of Access Charge Savings

12 As the access charge rates that IXCs pay declines, we expect a
13 corresponding decline in intrastate long distance rates, some additional investment in
14 technology and efficiency and more robust competition. In order to achieve a revenue
15 neutral impact on consumers as a whole, the aggregate decline in long distance
16 charges would need to equal the total increase to end-users from the NAF. Whether we
17 should mandate this pass-through or rely on the competitive market to accomplish a
18 similar result is one of the most controversial issues we face in this proceeding.

19 All commenters in this proceeding, other than AT&T Alascom¹⁸ and GCI¹⁹
20 advocate that we mandate a pass-through. Some dispute whether free market
21 mechanisms would ensure a full pass-through of access charge savings, due to the
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¹⁸Alascom Inc., d/b/a AT&T Alascom (AT&T Alascom).
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1 approximately 90 percent market concentration of the two largest IXCs.²⁰ They also
2 argue that there is no credible evidence in the record that the IXCs are operating at
3 below cost now, and, even if they are below cost now, a mandatory pass-through
4 requirement would not further harm them.²¹ We heard concern about the level of
5 complaint LECs might face from their ratepayers.²²
6

7 AT&T Alascom and GCI both oppose a mandatory pass-through
8 requirement. They argue that this approach is unnecessary and inefficient due to the
9 presence of a competitive market.²³ They also argue that we have no authority to
10 require them to reduce rates below their costs. They dispute assertions of others that
11 there is no evidence in the record to show that long distance rates are already below
12 cost.²⁴ In fact, GCI acknowledges that it is unlikely to make a complete pass-through of
13 access charge savings because its rates are already below cost. GCI argued that
14 although below cost rates are not confiscatory in a competitive market, they would be
15 confiscatory if we prevented IXCs from charging compensatory rates.²⁵ Finally, they
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18 (. . . continued)

19 ¹⁹GCI Communication Corp. d/b/a General Communication, Inc., and d/b/a GCI
(GCI).

20 ²⁰Rural Coalition Reply Comments, dated August 30, 2004, at 9.

21 ²¹AG Comments, dated August 16, 2004, at 9; ACS Comments, dated August 16,
2004, at 6; Rural Coalition Reply at 2-5.

22 ²²Tr. 476.

23 ²³AT&T Alascom Comments, dated August 16, 2004, at 5-6.

24 ²⁴GCI Reply Comments, dated August 30, 2004, at 3; AT&T Reply Comments,
dated August 30, 2004, at 8.

25 ²⁵Tr. 499-500.
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1 argue that continuation of below cost rates will perpetuate losses and lead to reduced
2 investment in network facilities.²⁶

3 We have decided to not mandate a pass-through requirement. We
4 believe competition has worked well over the past 14 years to drive intrastate long
5 distance rates to cost (and possibly below cost) and will continue to do so.
6 Furthermore, as our goal is to reduce regulation in response to the emergence of
7 competition and technology, ratepayers would be ill-served if we increased regulatory
8 oversight on a market that has proven that competition benefits consumers. Although
9 commenters have noted that other states have adopted mandatory pass-throughs, the
10 FCC has not. We also find we do not have authority to require IXCs to price below their
11 costs. IXCs may do so of their own accord due to the pressures of competition;
12 however, we cannot require them to do so.
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15 GCI reminded us²⁷ that access charges were mandated during the
16 formative years of telephony in America characterized by monopoly local service and
17 long distance providers. Long distance providers were required to pay “access
18 charges” to local exchange providers, making local phone service more affordable for
19 citizens throughout the country, regardless of whether they used long distance service
20 or not. In stark contrast, the market of the 21st Century is characterized by competition
21 in virtually all markets by a variety of communication technologies and by few
22 monopolistic vestiges in major local and long distance markets. As technology creates
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25 ²⁶Tr. 513; GCI Comments, dated August 16, 2004, at 4.

26 ²⁷Tr. 381-384.

1 new services and network arrangements, we can no longer continue to rely on the old
2 regulatory paradigm in which only IXCs are required to pay access fees.

3 While some commenters argue that a single ratemaking issue like pass-
4 through has established precedents, we believe those precedents are fundamentally
5 different because they did not occur in a competitive market. In those cases, we were
6 dealing with monopoly firms in which review of a utility's rate could be addressed in a
7 reasonable manner and we had some assurance that the utility was not already
8 operating below cost. We do not believe it is in the public interest to impose cost
9 reductions on competitive firms when such action could possibly result in confiscation.
10 This outcome would be contentious, time consuming, expensive, and an unnecessary
11 intrusion on a working competitive market. Furthermore, any delays in completing what
12 would amount to a full rate case²⁸ for any aggrieved IXC could result in irreparable harm
13 since any regulatory relief from confiscation would occur well after the pass-through
14 requirement would have gone into effect.
15

16 We believe the public will benefit from access charge reform without a
17 mandatory pass-through requirement. In addition to the pressures of a competitive
18 market, we will require the benefits that are passed through to be reasonably distributed
19 to all customer classes.²⁹
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22 ²⁸Several parties argued that the financial evidence provided by AT&T Alascom
23 and GCI in this record (which includes Form Ms) is inadequate and that the appropriate
24 evidence is more consistent with the type of information presented in a rate case. Rural
Coalition Reply at 4.

25 ²⁹Alaska Intrastate Interexchange Access Charge Manual (AIIACM) Section
26 201(b).

1 We do not adopt our previous proposal to suspend the NAF increase
2 scheduled for 2007 if savings have not been sufficiently passed through. Such action
3 would be inconsistent with our decision to not require a pass-through. Suspension of a
4 NAF would be a jolting and confusing ordeal for utilities and their customers, and would
5 introduce the possibility of drastic swings in long distance rates. It should be done only
6 if there is a valid public interest reason. We believe the free market, with our
7 recordkeeping requirement, can create a legally appropriate and equitable array of
8 benefits to various user groups and utilities without subjecting Alaska to a roller-
9 coasting of NAF and long distance rates. We also reject the AG's creative proposal
10 permitting repeal of the NAF. As discussed earlier, due to federal preemption against
11 charging wireless and Internet providers for access, we believe that adoption of a NAF
12 is the only viable path toward removing clear inequities characterizing our access
13 charge system.
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16 We do not retain the reporting requirements proposed in Order R-01-1(12)
17 but will require IXCs to maintain records that will allow us to thoroughly evaluate the
18 progress of long distance rate reductions should we open an investigation. We do not
19 adopt the additional revenue reporting categories proposed by ACS. These appear to
20 be justified primarily by ACS' proposed 25 percent pass-through requirement to carrier
21 services which we are not adopting. Two of ACS' proposed categories (wholesale
22 services and leased facilities) involve services that do not include access charges. The
23 third ("retail services sold to carriers for resale") is currently a subset of a service
24 already included in the proposed regulations ("business calling plans and promotions")
25 and would appear to be unnecessary. The revenue reporting categories included in the
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1 Joint Report were the result of industry consensus and we are reluctant to alter them
2 without clear support for additional changes.

3 Finally, we recognize that even with a full pass-through of savings, the
4 effect on end-users may not apply equitably for each individual customer. Customers
5 who tend to make a high volume of intrastate calls should see a decline in their overall
6 long distance bills. Customers who pay an identical NAF and make few long distance
7 calls will not. We believe that the need to rationalize our access charge system by
8 phasing in a reduction of the CCL charge paid exclusively by IXCs, outweighs the
9 potential negative impact on some customers. Potential impact on low volume
10 customers will also be ameliorated by our Lifeline program.³⁰ We also believe that
11 lower long distance rates will benefit rural customers who tend to make a higher
12 percentage of in-state long distance calls than urban citizens, in part, due to the need to
13 contact schools, government agencies, and other essential services outside of their
14 more remote communities. This will help to bring urban and rural rates more into
15 balance with the universal service principles envisioned by Congress when it adopted
16 the Telecommunications Act.³¹

20 ³⁰The Rural Coalition and GCI have represented that as a non-discretionary fee,
21 the NAF will be absorbed by the interstate USF for Lifeline customers.

22 ³¹47 U.S.C. § 254(b)(3) states:

23 Consumers in all regions of the Nation, including low-income
24 consumers and those in rural, insular, and high cost areas, should have
25 access to telecommunications and information services, including
26 interexchange services and advanced telecommunications and
information services, that are reasonably comparable to those services
provided in urban areas and that are available at rates that are reasonably
comparable to rates charge for similar services in urban areas.

1 Other Proposals

2 We decline to adopt ACS' proposed carrier's carrier allocation for pass-
3 through of access charge savings and the AG's alternative NAF proposals. Although
4 there was qualified support from some commenters, it was also generally recognized
5 that these proposals lacked sufficient detail to be fully evaluated. Elements of these
6 proposals also appeared to be arbitrary, such as ACS' 25 percent allocation to carrier's
7 carrier rates³² and the AG's minimum 10 percent allocation to IXCs. These participants
8 will be free to resubmit their proposals in more detail in future rulemaking proceedings
9 dealing with access charge reform, or petition for such rulemaking.
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11 No commenter objected to GCI's proposal that access lines be counted
12 the same way that the interstate subscriber line is counted. However, since this
13 particular suggestion is technically complex, we intend to address this issue separately.
14

15 Public Outreach

16 Some commenters argued³³ that we should have conducted more public
17 outreach on this issue during our proceeding; and, failing that, we should undertake an
18 expansive public outreach policy with promulgation of these regulations to acquaint
19 ratepayers with the new SLC and the reasons for its implementation. While
20 commenters are generally supportive of reform, the pass-through proposal is the major
21 point of contention as we conclude these proceedings.
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24 ³²AT&T Alascom also argued that the ACS proposal would require reduction of
wholesale rates that do not current include the cost of access. AT&T Alascom Reply at
18.

25 ³³AG Comments at 5-7; ACS Comments, dated December 30, 2003, at 8.
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1 Our regulation proceedings are conducted in the public spotlight. By
2 public notice and by advertising on our web page, all interested persons are afforded a
3 right to comment on proposed regulations. We share the concerns of some
4 commenters that too few citizens, citizen groups, and news media representatives
5 followed this proceeding which affects rates throughout Alaska. However, we
6 adequately noticed our proceedings as required by law and find no procedural flaw in
7 this Docket.

8 Uncontested Revisions

9 No party objected to our revisions to AllACM Sections 104 and 105
10 dealing with repeal of the “minute of use Carrier Common Line” charge, elimination of
11 the separate CCL rate elements for non-pooling LECs based upon originating and
12 terminating minutes of use, and clarification of when an IXC reselling IXC services
13 receives credit for payment of access charges. We adopt these proposed revisions.

14 Notification to Ratepayers

15 We require utilities to provide notice of the new NAF to all ratepayers on
16 billing statements after the NAF takes effect. The explanation should clearly identify the
17 reform process in simple terms and may refer to the Commission website where we will
18 provide a summary of the reform.

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ORDER

THE COMMISSION FURTHER ORDERS, that,

1. The regulations set out in the Appendix attached to this Order are adopted.

2. Utilities shall notify ratepayers of the imposition of the network access fee as further discussed in the body of this Order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 28th day of September, 2004.

BY DIRECTION OF THE COMMISSION
(Separate Statements of Commissioners Kate Giard and
Anthony A. Price, Dissenting)

(S E A L)

3 AAC 48.440. Rates for Interexchange Assess. Access charges shall be assessed for use of local exchange telephone utility facilities by the providers of intrastate interexchange telecommunications services. Those charges must be determined, assessed, and collected, and revenues from those charges must be distributed, in accordance with the commission's rules as set out in the *Alaska Intrastate Interexchange Access Charge Manual*, dated **September 27, 2004** [APRIL 28, 2004], and adopted by reference. That manual is available at the offices of the Regulatory Commission of Alaska as specified in 3 AAC 48.010(a). (Eff. 2/16/90, Register 113; am 4/7/93, Register 126; am 1/10/99, Register 149; am 4/24/2004, Register 170; am 7/9/2004, Register 171; am / /2004; Register)

Authority: AS 42.05.141 AS 42.05.321 AS 42.05.381
AS 42.05.151 AS 42.05.361 AS 42.05.401
AS 42.05.311 AS 42.05.371 AS 42.05.830

Note: Except where noted all the following changes go into effect on January 1, 2005:

The following are proposed changes to the Alaska Intrastate Interexchange Access Charge Manual:

Section 004(a) is amended to read:

004. CHARGES TO BE FILED. (a) The carrier's carrier charges for access service filed with the Commission shall include charges for each of the following elements:

- (1) Carrier Common Line;
- (2) Local Switching;
- (3) Common Transport;
- (4) Dedicated Transport;
- (5) Special Access; [AND]
- (6) Equal Access; and
- (7) Network Access Fee.**

Section 104 is amended to read:

104. CARRIER COMMON LINE FOR NONPOOLING COMPANIES. (a) A charge that is expressed in dollars and cents per month shall be assessed upon all [CERTIFICATED] interexchange carriers **that interconnect with the local exchange common line facilities for the provision of intrastate MTS and MTS-like services.**

[AND UPON NONPUBLIC UTILITIES THAT PROVIDE INTEREXCHANGE SERVICE. THE CHARGES UNDER THIS PARAGRAPH, HOWEVER, SHALL NOT BE ASSESSED UPON INTEREXCHANGE CARRIERS TO THE EXTENT THAT THEY RESELL INTRASTATE MTS OR MTS-TYPE SERVICES.]

(b) A monthly carrier common line (CCL) rate cap shall be determined by dividing the last approved intrastate MTS revenue requirement of the incumbent LEC by **twelve times** the number of revenue producing lines served by the incumbent LEC at the end of the test period for the revenue requirement.

(c) The monthly [ORIGINATING] bulk bill shall be determined by first multiplying the [ORIGINATING COMPONENT OF THE] LEC's **monthly** rate cap by the LEC's revenue producing switched access lines **and then subtracting monthly NAF revenues**. The number of revenue producing access lines shall be based either on the average of beginning of period and end of period number of lines **for the month in which NAF revenues were derived**, or based on such other line count method approved by the Commission that is reasonably synchronized with the billing period.

(d) Repealed.

(e) Repealed.

(f) Repealed.

(g) Repealed.

(h) A LEC's monthly CCL rate cap [AND THE ORIGINATING AND TERMINATING COMPONENTS OF THE LEC'S MONTHLY CCL RATE CAP] must be specified in the LEC's tariff.

(i) **The portion of a LEC's monthly bulk bill charged** [A LEC's MONTHLY ORIGINATING CCL CHARGE] to an IXC shall be determined each month by multiplying the LEC's monthly [ORIGINATING] bulk bill by the IXC's proportionate [ORIGINATING] market share for the month [MEASURED BY THE IXC'S ACCESS MINUTES ORIGINATING ON THE LEC's FACILITIES]. **“Proportionate market share” shall be based on each IXC's percentage of combined originating and terminating access minutes associated with interconnection with the facilities of the LEC.**

(j) Repealed.

(k) For purposes of this section, the LEC that initially transmits an interexchange call for an end-user, before transferring it to any other carrier, is the originating LEC. The originating LEC is entitled to collect originating switched access charges from the originating IXC.

(l) For purposes of this section, the LEC that delivers an interexchange call to the end-user that receives the call is the terminating LEC. The terminating LEC is entitled to receive terminating switched access charges from the terminating IXC.

(m) The first IXC to transmit an interexchange call after it is transferred from the local exchange network is the originating IXC. The originating IXC must pay the originating switched access charges.

(n) The last IXC to transmit an interexchange call before it is transferred to the local exchange network is the terminating IXC. The terminating IXC must pay the terminating switched access charges.

(o) All of the IXCs and LECs involved in the transmission of interexchange calls must provide interconnecting carriers with sufficient information to allow accurate billing of both originating and terminating switched access charges.

(p) An access customer that generates chargeable access minutes is considered an IXC for purposes of this section.

(q) A nonpooling LEC may petition the Commission to deaverage the monthly CCL rate cap established for an ILEC's study area. The LEC petitioning to deaverage has the burden of proving that:

(1) substantial cost differences exist within the study area;

(2) the proposed deaveraging is an appropriate regulatory response to those differences; and

(3) the proposed deaveraging is in the public interest.

(r) Zone differentials proposed by the petitioning LEC shall be based upon a forward looking cost model that:

(1) apportions the ILEC's most recent CCL revenue requirement to each zone based on the percentage of each zone's total loop cost;

(2) divides each zone's apportioned CCL revenue requirement by total active loops to get the CCL rate cap by zone;

(3) relies on publicly available data;

(4) is subject to scrutiny by all interested parties; and

(5) is not susceptible to manipulation or designed to advance the petitioner's strategic interests.

(s) Within ten business days following the rendering of a monthly carrier common line bill, the LEC rendering the bill shall file a Monthly Carrier Common Line Report. The Monthly Carrier Common Line Report shall include [FOR THE ORIGINATING AND TERMINATING BULK BILLS]: the calculation of the monthly bulk bills, the market share of each interexchange carrier, and the amount billed to each interexchange carrier.

(t) An interexchange carrier shall receive a credit for Carrier Common Line charges to the extent that it resells services for which these charges have already been assessed (e.g., intrastate MTS or MTS-type service).

(u) An interexchange carrier shall not receive a credit for bulk bill charges to the extent that it resells services for which these intrastate charges have not already been assessed (e.g., interstate MTS or MTS-type service used to complete intrastate calls).

Section 105 is repealed and readopted to read:

105. CARRIER COMMON LINE FOR POOLING COMPANIES. (a) A charge that is expressed in dollars and cents per month shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of intrastate telecommunications services, and a charge that is expressed in dollars and cents per access minutes of use shall be assessed upon all nonpublic utilities that provide interexchange service.

(b) The monthly bulk bill charge shall be determined each month by dividing the annual Carrier Common Line revenue requirement for pooling companies by twelve and then subtracting the monthly revenue derived from NAF charges.

(c) The portion of the monthly bulk bill charged to an IXC shall be determined by multiplying the monthly bulk bill by the IXC's proportionate market share for the month.

(d) "Proportionate market share" shall be based on each interexchange carrier's percentage of combined originating and terminating access minutes associated with interconnection with the facilities of a pooling company.

(f) All of the IXCs and LECs involved in the transmission of interexchange calls must provide interconnecting carriers with sufficient information to allow accurate billing of switched access charges.

(g) An access customer that generates chargeable access minutes is considered an IXC for purposes of this section.

(h) An interexchange carrier shall receive a credit for bulk bill charges to the extent that it resells services for which these charges have already been assessed (e.g., intrastate MTS or MTS-type service).

(i) An interexchange carrier shall not receive a credit for bulk bill charges to the extent that it resells services for which these intrastate charges have not already been assessed (e.g., interstate MTS or MTS-type service used to complete intrastate calls).

Section 109 is added to read:

109. NETWORK ACCESS FEE. (a) A network access fee (NAF) that is expressed in dollars and cents per line per month shall be assessed upon end-users

that subscribe to any switched local exchange telephone service, including Centrex service and pay telephone line service. The NAF shall be assessed for each line between the premises of an end-user, or pay telephone, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Beginning April 1, 2005, the NAF shall be \$1.50 per access line per month.

(c) Beginning April 1, 2007, the NAF shall increase to \$3.00 per access line per month.

ARTICLE 200 is added to read:

ARTICLE 200. PASS-THROUGH OF ACCESS CHARGE SAVINGS.

201. PASS-THROUGH. To the extent an IXC passes through savings resulting from the adoption of a NAF, as provided for in sections 109(b) and (c), in the form of long distance rate reductions, those reductions shall be reasonably distributed to all customer classes, including residential customers, business customers, basic calling plan customers, and optional calling plan customers.

Section 706 is added to read:

706. RECORDKEEPING. (a) IXC's shall maintain annual records of intrastate revenue and billed minutes, and optionally, records of infrastructure investment, for annual periods beginning on April 1, 2004 through March 31, 2005, and for the next four years thereafter. The revenue and billed minutes shall be disaggregated by the following customer classes:

- (1) residential and business basic rates;
- (2) residential calling plans and promotions;
- (3) business calling plans and promotions; and
- (4) all other revenues.

(b) The Commission may require reseller IXCs to provide average cost per minute data in lieu of, or in addition to, the information required by (a) of this section.

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

In the Matter of the Consideration of Reform of
Intrastate Interexchange Access Charge Rules)

R-01-1
ORDER NO. 13

**DISSENTING STATEMENT OF
COMMISSIONER KATE GIARD, CHAIRMAN**

TO ORDER NO. 13, entitled:

ORDER ADOPTING REGULATIONS
(Issued September 28, 2004)

I cannot agree with the Majority's decision to adopt our version of access charge reform because it directly conflicts with this agency's mission to protect Alaska's ratepayers. It competitively disadvantages all of Alaska's local exchange telephone carriers (LECs) by transferring \$17 million¹ of annual costs from AT&T Alascom² and

¹The network access fee collected from Alaska's ratepayers is \$8.5 million in the first two years, rising to \$17 million annually thereafter.

²Alascom Inc., d/b/a AT&T Alascom (AT&T Alascom).

1 GCI³ to local exchange ratepayers without any mechanisms for measuring the public
2 benefit.

3 There is no doubt that access charge reform is necessary in order to
4 maintain Alaska's traditional long distance infrastructure and is also key to the survival
5 of Alaska's rural telephone companies. Our principal long distance companies, AT&T
6 Alascom and GCI, annually provide nearly \$50 million of financial support, via the
7 current access charge regime, to rural telephone companies across Alaska. They
8 achieve this by charging high in-state long distance rates and passing the money back
9 to the LECs.

10 The Alaska access charge regime was established under the theory that
11 since AT&T Alascom used the LEC's network to complete a long distance call, they
12 should pay a portion of the cost of operating and maintaining that network. The non-
13 traffic sensitive portion was set at 20 percent of the state-wide network loop cost, (\$40
14 million in 2003) plus additional charges for each minute of use which (\$10 million in
15 2003) together provided the \$50 million of revenues flowing back to rural telephone
16 exchanges throughout Alaska.

17 This system worked fine for AT&T Alascom as long as it was the only long
18 distance carrier in the state because it could charge high in-state rates sufficient to
19 cover its operating costs plus access fees and make a good profit margin. In recent
20 years, two events unfolded which changed this paradigm.

21 First, long distance competition between AT&T Alascom and GCI drove
22 the profit margins of both companies into the negative. This resulted in AT&T Alascom
23 dramatically reducing infrastructure investment in Alaska as its profitability plummeted.

24 _____
25 ³GCI Communication Corp. d/b/a General Communication, Inc., and d/b/a GCI
26 (GCI).

1 Second, wireless calling has begun to shrink the size of the long distance
2 calling market, so the pie for long distance companies is smaller. In 2000, for example,
3 total wireless revenues in Alaska were \$100 million and long distance revenues were
4 \$73 million. In 2003, wireless revenues in the State were \$135 million and long
5 distance revenues were \$46 million. Total long distance revenues have eroded to such
6 an extent that 2003 access charges were \$4 million higher than total long distance
7 revenues (based on evidence by AT&T Alascom).

8 It would seem practical, therefore, that wireless, which is capturing such a
9 large market, would share in the \$50 million costs paid by the long distance companies.
10 But the Commission cannot require wireless to share.

11 The FCC⁴ has exempted wireless companies from paying any portion of
12 the non-traffic sensitive cost of the network that the long distance companies pay. This
13 situation is clearly unfair, but it is what we have to live with today. Both AT&T Alascom
14 and GCI testified that over the long term, if this inequity continues, they will seek
15 alternative, yet legal, ways to avoid paying access charges. And who could blame
16 them? When that happens, and it has already begun in Alaska, the \$50 million transfer
17 to rural telephone companies will evaporate and the telephone infrastructure in Alaska
18 will suffer.

19 A solution definitely needs to be found and it is our job to find the solution.
20 The FCC gave us a path to follow when they took federal access charges out of the
21 interstate long distance system and transferred them to local telephone ratepayers.
22 When that happened, a vibrant competitive market flourished in the Lower 48 as
23

24
25 ⁴Federal Communications Commission (FCC).
26

1 multiple providers took advantage of the decrease in costs and long distance rates
2 sharply declined. The Majority uses this precedence as justification for their actions.

3 However, there are substantial differences in our approach that make this
4 regulation, for all practical purposes, a useless tool to address the long-term issues
5 described above.

6 First, we watered down the regulation to such an extent that we only take
7 \$17 million out of the access charge system, not the full \$50 million. This means long
8 distance rates will never fall to the same levels of cellular or Internet and the long-term
9 issues still remain. The truth is, we didn't do enough homework with the public over the
10 past four years to justify the substantial increase in local phone bills and we were afraid
11 of the public outcry. As a result this regulation will never promote the kind of vibrant
12 competition that happened in the Lower 48 because our access charge system is still
13 too expensive to attract that kind of competition.

14 Second, we shifted \$17 million of costs from the long distance companies
15 to the ratepayers and we cannot promise that the entire amount will not end up in the
16 corporate coffers of GCI and AT&T Alascom. We did not require them to pass through
17 the savings to the consumers in exchange for increasing consumer bills. We left it up to
18 them to decide how much, if at all, they wanted to further reduce long distance rates.

19 The Majority acted in opposition to the Attorney General representing the
20 public interest, to the Rural Coalition representing rural local telephone companies, to
21 the AARP representing 70,000 Alaskan elderly, and to several Alaskan legislators who
22 earlier this year sent us a letter stating that this regulation should not be passed without
23 guaranteeing some benefit to ratepayers. The Majority decided, in adopting this
24 regulation that competition itself would drive the prices down to an appropriate degree
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1 that the \$17 million would be dispensed in a fair and equitable manner. I agree that it is
2 one possibility.

3 The Majority clearly heard testimony from AT&T Alascom and GCI
4 assuring us that they would voluntarily reduce the rates, that they are fierce competitors,
5 and that the market would drive the prices down. AT&T Alascom and GCI are good
6 corporate citizens, and frankly, have earned the right to expect a degree of trust from
7 the RCA.

8 Unfortunately, we also heard their credible testimony that as a result of
9 their fierce competition over the last five years, they had driven their prices below their
10 costs and were each underwater financially in their long distance business segments.
11 AT&T Alascom even provided schedules at the last public hearing that proved this was
12 the case.

13 Those comments should have given the Majority pause. Is it really
14 responsible regulatory behavior to give \$17 million annually that comes from Alaskan
15 ratepayer's wallets and turn it over, with no strings attached, to companies that are
16 already losing money and trust that they will return it to ratepayers in the form of further
17 reductions? AT&T Alascom and GCI answer to stockholders and boards of directors
18 who may not be so generously inclined if they have been losing money over the past
19 several years.

20 The third and final failure with this regulation is, frankly, the most troubling
21 from my perspective. In a move that surprised everyone, and that I completely fail to
22 understand, the Majority gutted the biennial reporting requirements that have been a
23 conceptual part of this regulation since its genesis in 2001.

24 Thus, if a ratepayer or the Legislature wants to know how this regulation
25 has impacted long distance rates or how much of the \$17 million is flowing back to
26 ratepayers, the Commission's response will be to step outside, wet the tip of its

1 regulatory finger, stick it up in the air, and getting a read on which way the wind is
2 blowing. Unless we open a formal investigation, Alaska's only regulatory agency will
3 have no clue.

4 Had the Majority made a decision to, in the words of Ronald Reagan,
5 "trust but verify" that GCI and AT&T would reduce long distance rates, then this dissent
6 would really be more of a philosophical discussion as to whether imperfect markets can
7 adequately replace regulation.

8 We commissioners are paid to, and do have, differing opinions on these
9 types of issues. However, advocating and voting for blind trust takes the Majority's
10 decision out of the philosophical arena altogether. When we intentionally limit our ability
11 to be held accountable for our actions by removing reporting requirements, we stray
12 from our essential mission of protecting the ratepayers of Alaska.

13 For all of the above reasons, I dissent.

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Kate Giard, Commissioner
Chairman

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

In the Matter of the Consideration of Reform of)
Intrastate Interexchange Access Charge Rules)

R-01-1
ORDER NO. 13

**DISSENTING STATEMENT OF
COMMISSIONER ANTHONY A. PRICE**

TO ORDER NO. 13, entitled:

ORDER ADOPTING REGULATIONS
(Issued September 28, 2004)

I dissent from the majority's decision to adopt its version of access charge reform for two reasons. First, the majority is unable to adequately explain why its version of the regulation is in the public interest. Secondly, the reform strips the carriers' as well as our accountability.

Lack of Justification that Regulation Is in Public Interest

The essence of the majority's rational for not requiring pass-through to consumers of access charge savings is to place its "trust" in the competitive market. The majority believes the competitive market will reduce intrastate long distance charges. Access charge relief allows the carriers to be even more price-competitive and allows them to justify making greater telecommunication infrastructure investments in Alaska. The theory goes that competition drives down cost and profits justify investments, therefore let's "trust" the market.

1 The Regulatory Commission of Alaska (RCA) is charged with providing a
2 healthy regulatory environment fostering a modern telecommunication infrastructure at
3 competitive rates. It is our job to balance the needs of both the consumers and the
4 telecommunication carriers.

5 Providing cost relief to carriers in the form of this regulation shifts the cost
6 burden to consumers. What do consumers (individuals, business and government)
7 receive in return for the millions in network access fees they will pay each year?
8 Beyond the bill each month, the answer is, nobody can say for sure. The carriers have
9 made no hard commitments and the majority's decision imposes no hard requirements
10 to ensure that the regulation is in the public interest. Access charge relief allows
11 traditional long-distance carriers to be more competitive which can lead to lower
12 intrastate long-distance cost per minute and/or higher profits and/or greater investment
13 in infrastructure. In the end, the outcome may be a healthy mix of all three. Reporting
14 requirements initially incorporated in the regulation provided information quantifying
15 benefits consumers receive from this action.

16 Lack of Accountability

17 The majority, surprising everyone, eliminated from the regulation
18 mandatory reporting by the carriers to the RCA. Staff testified the data was necessary
19 for the purpose of identifying the outcome of access charge relief. The carriers have
20 made assurances of the benefits of access charge relief to the consumers. Absent the
21 data, we cannot evaluate how or if consumers have benefited from the access charge
22 burden they now assume. The majority has relieved the carriers from accountability
23 and the RCA, too. Elimination of the reporting requirement does not allow us to know if
24 the decision was wise or unwise. Bad enough the carriers' are not to be held
25 accountable, but we eliminated our *own* accountability.

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The RCA recognized access charge reform was needed. There are valid arguments for every version contemplated. In the end, the majority determined no pass-through is required. I may disagree with the majority's decision to eliminate the pass-through requirement, but I can live with it. I, however, cannot accept eliminating mandatory reporting which eliminates the carriers' accountability. Finally and most importantly, I cannot accept the majority's decision to eliminate the RCA's accountability.

Anthony A. Price, Commissioner