

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Mark K. Johnson, Chair
Kate Giard
Dave Harbour
James S. Strandberg
G. Nanette Thompson

In the Matter of Whether Interexchange Carriers)
Operating in the Anchorage Market Should be) R-01-2
Allowed to Sell Interexchange and Local)
Services as a Bundle) ORDER NO. 7

In the Matter of the Consideration of Revision to)
the Regulations Governing the Competitive) R-02-6
Local Exchange Market in Alaska) ORDER NO. 9

ORDER ADOPTING REGULATIONS

BY THE COMMISSION:

Summary

We adopt regulations addressing bundling¹ practices in Alaska.

¹The term "bundling" is the practice of selling several services as a single package with the purchase of more than one service required to receive the (typically discounted) package price. Our current bundling restriction precludes or restricts carriers from selling local exchange and intrastate interexchange service as a combined service at a single rate.

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Background

We opened Docket R-01-2 to review the bundling policy for intrastate interexchange carriers operating in the Anchorage market² and then expanded our investigation to consider the limitations that should be placed on a carrier's ability to sell local services as a bundle with non-local services in competitive markets.³

We issued proposed regulations for comment on March 10, 2004,⁴ and received comments from ACS,⁵ AT&T Alascom,⁶ GCI,⁷ and the Rural Coalition.⁸ At our

²See Order U-00-155(6)/U-00-156(5)/U-01-41(1)/R-01-2(1), entitled *Order Opening Dockets to Investigate 1+ Access and Bundling; Denying In Part Request for Confidentiality; Addressing Motion for Stay of Conditions; Approving Inception Tariff Sheets; Canceling Reports; Allowing Withdrawal of Tariff Filing; Addressing Cancellation of Infinite Minutes and Combined Plans; and Addressing Bundling Issues*, dated April 23, 2001.

³See Order R-01-2(3)/R-02-6(1)/R-02-7(1), *Order Issuing Notice of Inquiry; Opening Docket to Consider Amending Regulations; Establishing Filing Schedule; Denying, In Part, Petition for Revised Regulation; and Closing Docket R-02-7*, dated November 21, 2002.

⁴See Order R-01-2(6)/R-02-6(6), *Order Issuing Proposed Regulations for Comment and Establishing a Filing Schedule*, dated March 10, 2004.

⁵ACS of Anchorage, Inc. d/b/a Alaska Communications Systems, ACS Local Services, and ACS (ACS-AN); ACS of Fairbanks, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS (ACS-F); ACS of Alaska, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS (ACS-AK); ACS of the Northland, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS (ACS-N); and ACS Long Distance, Inc. d/b/a Alaska Communications Systems, ACS Long Distance, and ACS (ACS-LD); collectively "ACS".

⁶Alascom Inc. d/b/a AT&T Alascom (AT&T Alascom).

⁷GCI Communication Corp. d/b/a General Communication, Inc. d/b/a GCI.

⁸For the purposes of this proceeding, the Rural Coalition is comprised of the following: Arctic Slope Telephone Association Cooperative; Copper Valley Telephone Cooperative, Inc.; Interior Telephone Company, Inc.; City of Ketchikan d/b/a Ketchikan Public Utilities - Telephone Division; Matanuska Telephone Association, Inc.; Mukluk Telephone Company, Inc.; Nushagak Electric and Telephone Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; Summit Telephone Company, Inc.; United-KUC, Inc.; and United Utilities, Inc.

1 June 2, 2004, Public Meeting, we adopted regulations addressing bundling. The
2 regulations are attached as an Appendix to this Order.

3 Discussion

4 We believe that our proposed regulations addressing bundling practices
5 reasonably address the interests of consumers and carriers. We require that carriers
6 offering a bundle that includes intrastate interexchange service be required to specify
7 the applicable intrastate interexchange rate and make the rate available statewide.
8 Carriers are also required to specify the local service rate component in any bundled
9 offering that includes a local exchange service component. Affiliated carriers bundling
10 local and interexchange services are required to offer each certificated (local or
11 interexchange) service on a stand-alone basis.

12 The regulations adopted in this proceeding allow carriers to bundle
13 services in any competitive service area in the state. We defined “competitive service
14 area”⁹ as the portion of any local exchange service area where multiple certificated
15 carriers are providing service throughout the area and the rural exemption under
16 47 U.S.C. § 251(f) is not in effect, and expressly reserve the right to designate an
17 additional area as a competitive service area based on the nature and extent of
18 competition available. We require any local exchange carrier offering a bundled service
19 to separately identify the rates for local exchange service, and to provide the local
20 exchange service on a stand-alone basis at the rate identified in the carrier’s tariff. We
21 also require any intrastate interexchange carrier offering a bundled service to identify
22

23 ⁹This definition is also being discussed in Docket R-03-3 and may later be
24 changed in that proceeding. Docket R-03-3 is titled *In the Matter of the Commission*
25 *Review of Rules and Regulations Governing Telecommunications Rates, Charges*
26 *Between Competing Telecommunications Companies, and Competition in*
Telecommunications.

1 the intrastate interexchange rates in the bundle and provide the discounted rate on a
2 stand-alone basis in locations where the bundled offering is not available.¹⁰

3 **ORDER**

4 THE COMMISSION FURTHER ORDERS that the regulations set out in an
5 Appendix to this Order are adopted.

6 DATED AND EFFECTIVE at Anchorage, Alaska, this 23rd day of June, 2004.

7 BY DIRECTION OF THE COMMISSION

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22 ¹⁰We do not adopt regulations at this time to inpute the regulated portion of a
23 bundle for purposes of computing regulatory cost charges and Alaska universal services
24 funds, but will do so in a subsequent regulations docket. Meanwhile, we will address
25 this issue as necessary on a case-by-case basis. See, for example, Letter Order
26 L0400262 (ACS-AN), TA465-120; Letter Order L0400263 (ACS-F), TA70-117); Letter
Order L00400264 (ACS-AK, TA129-251), and Letter Order L0400299 (GCI),
TA255-489.

3 AAC 52.390 is amended by adding a new subsection to read:

3 AAC 52.390. Miscellaneous provisions.

(f) An interexchange carrier that offers a bundled service shall, in its tariff provision describing the bundled service offering, and in the public notice of any proposed bundled service tariff provision, separately identify the rates for local and intrastate interexchange services included in the bundle and offer the intrastate interexchange services and rates on a statewide basis. An interexchange carrier that offers a bundled service must provide the customer the alternative of purchasing intrastate interexchange service on a stand-alone basis. An interexchange carrier that offers discounted intrastate interexchange service as part of a bundle is required to provide the discounted intrastate interexchange service on a stand-alone basis only in locations where the bundled offering is not available. An intrastate interexchange carrier that offers bundled services including local exchange service must also comply with 3 AAC 53.295. (Eff. 3/16/91, Register 117; am 7/8/93, Register 127; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am ___/___/___, Register ___)

Authority:	AS 42.05.141	[AS 42.05.221]	[AS 42.05.711]
	<u>AS 42.05.145</u>	[AS 42.05.241]	<u>AS 42.05.800</u>
	AS 42.05.151	<u>AS 42.05.291</u>	[AS 42.05.990]

3 AAC 52.399 is amended by adding a new paragraph to read:

3 AAC 52.399. Definitions. Unless the context indicates otherwise, in

3 AAC 52.350 – 3 AAC 52.399

(16) “bundled service” means an offering combining two or more services, one of which is intrastate interexchange service, for a package price that may include a discount or some other benefit; the term “bundled service” does not include a combination of intrastate interexchange service offerings at a package price. (Eff. 3/16/91, Register 117; am 9/1/2002, Register 163; am 5/18/2003, Register 166; am ___/___/____, Register ____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800
AS 42.05.145 AS 42.05.291 [AS 42.05.990]

3 AAC 53 is amended by adding a new section to read:

3 AAC 53.295. Bundled services. (a) A local exchange carrier that offers service in a competitive service area may bundle services subject to the limitations stated in (b) and (c) of this section.

(b) A local exchange carrier that offers a bundled service shall, in its tariff provision describing the bundled service offering, and in the public notice of any proposed bundled service tariff provision, separately identify the rates for local or intrastate interexchange services included in the bundle. Any intrastate interexchange service included in the bundle must be offered on a statewide basis at the rate specified in the tariff.

(c) A local exchange carrier that offers a bundled service must provide retail customers the alternative of purchasing local exchange service on a stand-alone basis at the carrier’s tariffed rate. Eff. ___/___/____, Register ____)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.800

3 AAC 53.299 is amended by adding a new paragraph to read:

3 AAC 53.299. Definitions. Unless the context indicates otherwise, in
3 AAC 53.200 - 3 AAC 53.299,

(9) “bundled service” means an offering combining two or more services, one of which is local service, for a package price that may include a discount or some other benefit; the term “bundled service” does not include a combination of local service offerings at a package price;

(10) “competitive service area” means the portion or portions of a certificated local exchange service area where multiple telecommunications providers are certificated to provide local exchange service, provide local exchange service throughout the area, and the rural exemption under 47 U.S.C. 251(f) is not in effect; however upon petition or its own motion, the commission may designate an additional area as a competitive service area based on the nature and extent of competition available. (Eff. 6/21/98, Register 146; am ___/___/____, Register ____)

Authority: AS 42.05.141 AS 42.05.151 [AS 42.05.720]
AS 42.05.145 AS 42.05.291 AS 42.05.800